Montana Legislative History

Chapter: 125 Session L: 1983

Bill Number: 346 **House**

Checklist of Bill History

History and Final Status Sheet	x
Introduced Bill	X
Fiscal Note	N/A
Third Reading Bill	X
Final Version of Bill	X

House

Committee:
State Administration

Hearing Date(s):
January 27, 1983

Senate

Committee: State Administration

Hearing Date(s):
March 2, 1983

Conference Committee

Hearing Date(s): n/a

Conference Committee Report:

Compiler Notes

Compiled by: sg

Date: February 13,

2024

Notes:

CHAPTER NO. 125

AN ACT TO DELETE THE REQUIREMENT THAT STATE AGENCIES AND THE GOVERNOR SUBMIT CERTAIN REPORTS; AMENDING SECTIONS 1-12-104, 2-7-103, 2-15-201, 2-15-401, 2-15-501, 20-3-105, 20-25-301, 22-1-503, 22-2-106, 37-1-106, 39-51-301, 39-71-209, AND 69-14-115, MCA; AND REPEALING SECTION 2-7-102, MCA.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 1-12-104, MCA, is amended to read:

"**1-12-104. Duties of commissioners.** (1) Each commissioner shall attend the meeting of the national conference of commissioners on uniform state laws and, both in and out of such national conference, shall do all in his power to promote uniformity in state laws upon all subjects where uniformity may be deemed desirable and practicable.

(2) It shall also be the duty of said commission to bring about as far as practicable the uniform judicial interpretation of all uniform laws."

Section 2. Section 2-7-103, MCA, is amended to read:

"**2-7-103. Review by governor of executive branch.** The office of the governor shall continuously study and evaluate the organizational structure, management practices, and functions of the executive branch and of each agency. The governor shall, by executive order or other means within the authority granted to him, take action to improve the manageability of the executive branch."

Section 3. Section 2-15-201, MCA, is amended to read:

"**2-15-201. Powers and duties of governor.** In addition to the duties prescribed by the constitution, the governor shall perform the following duties:

(1) He shall supervise the official conduct of all executive and ministerial officers.

(2) He shall see that all offices are filled and the duties thereof performed or, in default thereof, apply such remedy as the law allows. If the remedy is imperfect, he shall acquaint the legislature therewith at its next session.

(3) He shall make the appointments and supply the vacancies as required by law.

(4) He is the sole official organ of communication between the government of this state and the government of any other state or of the United States.

(5) Whenever any suit or legal proceeding is pending against this state or which may affect the title of this state to any property or which may result in any claim against the state, he may direct the attorney general

to appear on behalf of the state and may employ such additional counsel as he may judge expedient.

(6) He may require the attorney general or county attorney of any county to inquire into the affairs or management of any corporation existing under the laws of this state.

(7) He may require the attorney general to aid the county attorney in the discharge of his duties.

(8) He may offer rewards not exceeding $1,000 each, payable out of the general fund, for the apprehension of any convict who has escaped from the state prison or any person who has committed or is charged with an offense punishable by death.

(9) He shall perform such duties respecting fugitives from justice as are prescribed by Title 46, chapter 30.

(10) He shall issue land warrants and patents, as prescribed in 77-2-342.

(11) He may require any officer or board to make special reports to him, upon demand, in writing.

(12) He shall discharge the duties of member of the board of examiners, of nonvoting ex officio member of the state board of education, and of member of the board of land commissioners.

(13) He has the other powers and must perform the other duties as are devolved upon him by this code or any other law of this state."

Section 4. Section 2-15-401, MCA, is amended to read:

"**2-15-401. Duties of secretary of state.** In addition to the duties prescribed by the constitution, it is the duty of the secretary of state to:

(1) attend at every session of the legislature for the purpose of receiving bills and resolutions and to perform such other duties as may be devolved upon him by resolution of the two houses or either of them;

(2) keep a register of and attest the official acts of the governor, including all appointments made by him, with date of commission and names of appointees and predecessors;

(3) affix the great seal, with his attestation, to commissions, pardons, and other public instruments to which the official signature of the governor is required;

(4) record in proper books all conveyances made to the state and all articles of incorporation filed in his office;

(5) take and file in his office receipts for all books distributed by him and direct the county clerk of each county to do the same;

(6) certify to the governor the names of those persons who have received at any election the highest number of votes for any office, the incumbent of which is commissioned by the governor;

(7) furnish, on demand, to any person paying the fees therefor, a certified copy of all or any part of any law, record, or other instrument filed, deposited, or recorded in his office;

(8) keep a fee book in which must be entered all fees, commissions, and compensation of whatever nature or kind by him earned, collected, or charged, with the date, name of payer, paid or unpaid, and the nature of the service in each case, which book must be verified annually by his affidavit entered therein;

(9) file in his office descriptions of seals in use by the different state officers;

(10) discharge the duties of member of the board of examiners and of the board of land commissioners and all other duties required of him by law;

(11) register marks as provided in Title 30, chapter 13, part 3;

(12) report annually to the legislative council all changes of names received pursuant to 27-31-205 for publication in the Laws of Montana;

(13) report annually to the legislative council all watercourse name changes received pursuant to 85-2-134 for publication in the Laws of Montana;

(14) keep a register of all applications for pardon or for commutation of any sentence, with a list of the official signatures and recommendations in favor of each application."

Section 5. Section 2-15-501, MCA, is amended to read:

"**2-15-501. General duties.** It is the duty of the attorney general:

(1) to attend the supreme court and prosecute or defend all causes to which the state or any officer thereof in his official capacity is a party and all causes to which any county may be a party unless the interest of the county is adverse to the state or some officer thereof acting in his official capacity;

(2) after judgment in any of the causes referred to in the preceding subsection, to direct the issuing of such process as may be necessary to carry the same into execution;

(3) to account for and pay over to the proper officer all moneys which may come into his possession belonging to the state or to any county;

(4) to keep a register of all cases in which he is required to appear, which must during business hours be open to the inspection of the public. The register must show the county, district, and court in which the cases have been instituted and tried and whether they are civil or criminal. If civil, the register must show the nature of the demand, the stage of proceedings and, when prosecuted to judgment, a memorandum of the judgment, of any process issued thereon, and whether satisfied or not. If not satisfied, the register must show the return of the sheriff. If criminal, the register must show the nature of the crime, the mode of prosecution, the stage of proceedings and, when prosecuted to sentence, a memorandum of the sentence and of the execution thereof, if the same has been executed, and if not executed, of the reason of the delay or prevention. The attorney general must deliver the same to his successor in office.

(5) to exercise supervisory powers over county attorneys in all matters pertaining to the duties of their offices and from time to time require of them reports as to the condition of public business entrusted to their charge. The supervisory powers granted to the attorney general by this subsection include the power to order and direct county attorneys in all matters pertaining to the duties of their office. The county attorney must, when ordered or directed by the attorney general, promptly institute and diligently prosecute in the proper court and in the name of the state of Montana any criminal or civil action or special proceeding.

(6) when required by the public service or directed by the governor, to assist the county attorney of any county in the discharge of his duties;

(7) to give his opinion in writing, without fee, to the legislature or either house thereof, to any state officer, board, or commission, to any county attorney, to the city attorney of any city or town, and to the board of county commissioners of any county of the state when required upon any question of law relating to their respective offices. He shall give any such opinion within 3 months following the date it is requested unless he certifies in writing to the requesting party that the question is of sufficient complexity to require additional time. If an opinion issued by the attorney general conflicts with an opinion issued by a city attorney, county attorney, or an attorney employed or retained by any state officer, board, commission, or department, the attorney general's opinion shall be controlling unless overruled by a state district court or the supreme court.

(8) to bid upon and purchase in the name of the state and under the direction of the board of investments any property offered for sale under execution issued upon judgments in favor of or for the use of the state and to enter satisfaction, in whole or in part, of such judgments as the consideration for such purchases;

(9) whenever the property of a judgment debtor in any judgment mentioned in the preceding subsection has been sold under a prior judgment or is subject to any judgment, lien, or encumbrance taking precedence of the judgment in favor of the state, under the direction of the board of investments, to redeem such property from such prior judgment, lien, or encumbrance. All sums of money necessary for such redemption must be paid out of any money appropriated for such purposes.

(10) when in his opinion it is necessary for the collection or enforcement of any judgment hereinbefore mentioned, to institute and prosecute, in behalf of the state, such suits or other proceedings as are necessary to set aside and annul all conveyances fraudulently made by such judgment debtors, the cost necessary to the prosecution must be paid out of any appropriations for the prosecution of delinquents;

(11) to discharge the duties of a member of the board of examiners and state board of land commissioners and other duties prescribed by law;

(12) to prescribe the form of blanks to be used by the clerks of the district courts in issuing commitments to the several state institutions, admission to which requires a court commitment."

Section 6. Section 20-3-105, MCA, is amended to read:

"**20-3-105. Administrative powers and duties.** In administering the affairs of his office, the superintendent of public instruction shall have the power and it shall be his duty to:

(1) keep a record of his official acts and all documents applicable to the administration of the office, preserve all official reports submitted to him for the period required by law, and surrender them to his successor at the expiration of his term;

(2) preserve all books, educational media, instructional equipment, and any other articles of educational interest and value which come into his possession and surrender them to his successor at the expiration of his term;

(3) cause the printing and distribution of all reports and forms necessary for the proper conduct of business by a district or school in the manner prescribed by the provisions of this title;

(4) provide and keep an official seal of the superintendent of public instruction by which his official acts shall be authenticated;

(5) whenever he deems necessary but not more than once every 4 years, cause the printing of a complete and updated volume of the school laws of the state which shall be offered and sold at cost of the printing and shipping to any school official or other person;

(6) whenever a replacement volume is not printed under the provisions of subsection (5), cause the printing of a cumulative supplement to the most recent volume of school laws immediately after the conclusion of any session of the legislature at which new school laws or amendments to the school laws were adopted. It shall be offered and sold at cost of the printing and shipping to any school official or other person.

(7) if deemed necessary, publish a biennial report of the superintendent of public instruction;

(8) counsel with and advise county superintendents on matters involving the welfare of the schools and, when requested, give a county superintendent a written answer to any question concerning school law;

(9) call an annual meeting of the county superintendents when he deems it advisable;

(10) as far as he shall find it practicable, address public assemblies on subjects pertaining to education in Montana; and

(11) faithfully work in all practical and possible ways for the welfare of the public schools of the state."

Section 7. Section 20-25-301, MCA, is amended to read:

"**20-25-301. Regents' powers and duties.** The board of regents of higher education shall serve as regents of the Montana university system, shall use and adopt this style in all its dealings therewith, and shall:

(1) have general control and supervision of the units of the Montana university system, which shall be considered for all purposes one university;

(2) adopt rules, not inconsistent with the constitution and the laws of the state, for its own government which are proper and necessary for the execution of the powers and duties conferred upon it by law;

(3) provide, subject to the laws of the state, rules for the government of the system;

(4) grant diplomas and degrees to the graduates of the system upon the recommendation of the faculties and have discretion to confer honorary degrees upon persons other than graduates upon the recommendation of the faculty of such institutions;

(5) adopt and use an official seal in the authentication of its acts;

(6) keep a record of its proceedings;

(7) have, when not otherwise provided by law, control of all books, records, buildings, grounds, and other property of the system;

(8) receive from the board of land commissioners, other boards, persons, or from the government of the United States all funds, incomes, and other property the system may be entitled to and use and appropriate the property for the specific purpose of the grant or donation;

(9) have general control of all receipts and disbursements of the system;

(10) appoint a president and faculty for each of the institutions of the system, appoint any other necessary officers, agents, and employees, and fix their compensation;

(11) appoint an executive secretary of the system, who shall not be a unit president, fix his term of office and salary, and generally prescribe his duties. The executive secretary is not a member of the board, but he shall serve as the secretary for the regents.

(12) appoint every 2 years a budget committee composed of four members selected from the appointive members of the regents which shall review the budget requests presented by the units of the system and transmit such requests and its recommendations to the regents;

(13) confer upon the executive board of each of the units of the system such authority as may be deemed expedient relating to immediate control and management, other than authority relating to financial matters or the selection of the teachers, employees, and faculty;

(14) confer, at the regents' discretion, upon the president and faculty of each of the units of the system for the best interest of the unit such authority relating to the immediate control and management, other than financial, and the selection of teachers and employees;

(15) prevent unnecessary duplication of courses at the units of the system;

(16) investigate the needs of the units by each member of the regents visiting each unit at least once each year;

(17) appoint a certified professional geologist or registered mining engineer as the director of the Montana state bureau of mines and geology, who shall be designated the state geologist, and appoint any other necessary assistants and employees and fix their compensation. The regents shall prepare a report to each regular session of the legislature showing the progress and condition of the bureau, including any other necessary or required information.

(18) supervise and control the agricultural experiment station, along with any executive or subordinate board or authority which may be appointed by the governor with the advice and consent of the regents;

(19) adopt a seal bearing on its face the words "Montana university system", which shall remain in the custody of the executive secretary and which shall be affixed to all diplomas and all other papers, instruments, or documents which may require it."

Section 8. Section 22-1-503, MCA, is amended to read:

"**22-1-503. Authority of board.** The powers and duties of said board are as follows:

(1) to make rules, not inconsistent with law, for the government of the board and for the government and administration of the state law library, including rules designating when and for what periods of time the library shall be open to the public and the office hours of the library;

(2) to appoint a librarian and prescribe the duties of such librarian when not otherwise provided for by law;

(3) to sell or exchange duplicate copies of books and pay the moneys arising therefrom into the state law library fund;

(4) to see that the books and other properties of the library are maintained in good order and repair and are protected from theft or injury;

(5) to draw from the state treasury at any time when needed for the legitimate expenses in maintaining and operating the library and acquiring books, reports, journals, and other works and properties therefor, including complete sets of statutory laws and codified laws of the United States of America, of the several states of the union, and of other jurisdictions, any moneys in the fund and available for such purposes;

(6) to establish such lawful relations and working arrangements with the library of congress of the United States, with the copyright office therein, and with the superintendent of documents of the United States as may be for the benefit and advantage of the state law library and promote the acquisition of books and other works from such sources as may be useful to those resorting to the facilities of the state law library."

Section 9. Section 22-2-106, MCA, is amended to read:

"**22-2-106. Council duties.** The duties of the council shall be to:

(1) encourage throughout the state the study and presentation of the arts and stimulate public interest and participation therein;

(2) cooperate with public and private institutions engaged within the state in artistic and cultural activities, including but not limited to music, theatre, dance, painting, sculpture, architecture, and allied arts and crafts, and make recommendations concerning appropriate methods to encourage participation in and appreciation of the arts to meet the legitimate needs and aspirations of persons in all parts of the state;

(3) foster public interest in the cultural heritage of our state and expand the state's cultural resources;

(4) encourage and assist freedom of artistic expression essential for the well-being of the arts."

Section 10. Section 37-1-106, MCA, is amended to read:

"**37-1-106. Biennial report to governor and legislature.** The department, in cooperation with each licensing board, shall prepare a biennial report. *The* biennial report of the department shall contain for each board a summary of the board's activities, the board's goals and objectives, a detailed breakdown of board revenues and expenditures, statistics illustrating board activities concerning licensing, summary of complaints received and their disposition, number of licenses revoked or suspended, legislative or court action affecting the board, and any other information the department or board considers relevant."

Section 11. Section 39-51-301, MCA, is amended to read:

"**39-51-301. Administration — duties and powers of department.** (1) It shall be the duty of the department to administer this chapter and it shall have power and authority to adopt, amend, or rescind such rules, to employ such persons, make such expenditures, require such reports, make such investigations, and take such other action as it deems necessary or suitable to that end. Such rules shall be effective upon publication in the manner, not inconsistent with the provisions of this chapter, which the department shall prescribe.

(2) The department shall determine its own organization and methods of procedure in accordance with the provisions of this chapter and shall have an official seal which shall be judicially noticed.

(3) Whenever the department believes that a change in contribution or benefit rates will become necessary to protect the solvency of the fund, it shall promptly so inform the governor and the legislature and make recommendations with respect thereto."

Section 12. Section 39-71-209, MCA, is amended to read:

"**39-71-209. Publication of reports and bulletins authorized.** The division shall have the power and authority to publish and distribute at its discretion from time to time such further reports and bulletins covering its operations, proceedings, and matters relative to its work as it may deem advisable."

Section 13. Section 69-14-115, MCA, is amended to read:

"**69-14-115. Investigation, enforcement, and report concerning railroad safety laws.** (1) The commission shall:

(a) make inquiry into the observance by all railroads within this state of the laws of the United States and of Montana intended to safeguard the lives of the employees of persons or corporations engaged in operating the same;

(b) lay complaint before the proper state or federal officer, of any infraction of any of such laws; and

(c) prosecute before the proper court or tribunal any person guilty of violation of the penal provisions thereof.

(2) The commission shall in *an* annual report set out what effort it has made to carry out the provisions of this section, with the result thereof, and in detail what steps it has taken to prosecute any violations of any such acts of which it has secured information. A copy of this annual report shall be mailed to the secretary of the department of transportation."

Section 14. **Repealer.** Section 2-7-102, MCA, is repealed.

Approved March 17, 1983.

CHAPTER NO. 126

AN ACT ALLOWING PHYSICIANS TO REPORT TO THE DIVISION OF MOTOR VEHICLES PATIENTS WITH CONDITIONS THAT IMPAIR THEIR ABILITY TO SAFELY OPERATE A MOTOR VEHICLE; AND PROVIDING LIMITED IMMUNITY FOR SUCH PHYSICIANS.

Be it enacted by the Legislature of the State of Montana:

Section 1. **Report to division by physician.** (1) Any physician who diagnoses a physical or mental condition that, in the physician's judgment, will significantly impair the person's ability to safely operate a motor vehicle may voluntarily report the person's name and other information relevant to his condition to the division of motor vehicles. The division, upon receiving the report, shall require the person so reported to be examined in the manner provided for in 61-5-110 and 61-5-207.

(2) (a) The physician's report may be introduced as evidence in any proceeding involving the granting, suspension, or revocation of the person's driver's license before the division or a court.

(b) The physician's report may not be utilized in a criminal proceeding, or in a civil proceeding other than as provided in this subsection, without the consent of the patient.

Section 2. **Physician's immunity from liability.** Any physician reporting in good faith is immune from any liability, civil or criminal, that otherwise might result by reason of his actions pursuant to [section 1]

HOUSE BILL NO. 346

INTRODUCED BY KEENAN, METCALF, DOZIER

BY REQUEST OF THE OFFICE OF BUDGET AND PROGRAM PLANNING

IN THE HOUSE

January 18, 1983	Introduced and referred to Committee on State Administration.
January 28, 1983	Committee recommend bill do pass. Report adopted.
January 29, 1983	Bill printed and placed on members' desks.
February 1, 1983	Second reading, do pass.
February 2, 1983	Considered correctly engrossed.
February 3, 1983	Third reading, passed. Transmitted to Senate.

IN THE SENATE

February 4, 1983	Introduced and referred to Committee on State Administration.
March 2, 1983	Committee recommend bill be concurred in. Report adopted.
March 4, 1983	Second reading, pass consideration.
March 5, 1983	Second reading, concurred in.
March 8, 1983	Third reading, concurred in. Ayes, 48; Noes, 0.

IN THE HOUSE

March 8, 1983	Returned to House.
March 9, 1983	Sent to enrolling.
	Reported correctly enrolled.

House BILL NO. 346

INTRODUCED BY Keenan Nutcall Day

BY REQUEST OF THE OFFICE OF BUDGET AND PROGRAM PLANNING

A BILL FOR AN ACT ENTITLED: "AN ACT TO DELETE THE REQUIREMENT THAT STATE AGENCIES AND THE GOVERNOR SUBMIT CERTAIN REPORTS; AMENDING SECTIONS 1-12-104, 2-7-103, 2-15-201, 2-15-401, 2-15-501, 20-3-105, 20-25-301, 22-1-503, 22-2-106, 37-1-106, 39-51-301, 39-71-209, AND 69-14-115, MCA; AND REPEALING SECTION 2-7-102, MCA."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 1-12-104, MCA, is amended to read:

"1-12-104. Duties of commissioners. (1) Each commissioner shall attend the meeting of the national conference of commissioners on uniform state laws and, both in and out of such national conference, shall do all in his power to promote uniformity in state laws upon all subjects where uniformity may be deemed desirable and practicable.

~~(2) Said commission shall report as provided in 2-7-102.~~

~~(3)~~(2) It shall also be the duty of said commission to bring about as far as practicable the uniform judicial interpretation of all uniform laws."

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"2-7-103. Review by governor of executive branch ~~report to legislature.~~ ~~(1)~~ The office of the governor shall continuously study and evaluate the organizational structure, management practices, and functions of the executive branch and of each agency. The governor shall, by executive order or other means within the authority granted to him, take action to improve the manageability of the executive branch.

~~(2) The governor shall submit a report to each regular legislative session concerning the duties of his office under subsection (1) of this section and his recommendations, if any, for the transfer of functions between agencies, the elimination of unnecessary functions, or other recommendations to improve the manageability of the executive branch.~~"

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"2-15-201. Powers and duties of governor. In addition to the duties prescribed by the constitution, the governor shall perform the following duties:

(1) He shall supervise the official conduct of all executive and ministerial officers.

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INTRODUCED BILL

session.

(3) He shall make the appointments and supply the vacancies as required by law.

(4) He is the sole official organ of communication between the government of this state and the government of any other state or of the United States.

(5) Whenever any suit or legal proceeding is pending against this state or which may affect the title of this state to any property or which may result in any claim against the state, he may direct the attorney general to appear on behalf of the state and may employ such additional counsel as he may judge expedient.

(6) He may require the attorney general or county attorney of any county to inquire into the affairs or management of any corporation existing under the laws of this state.

(7) He may require the attorney general to aid the county attorney in the discharge of his duties.

(8) He may offer rewards not exceeding $1,000 each, payable out of the general fund, for the apprehension of any convict who has escaped from the state prison or any person who has committed or is charged with an offense punishable by death.

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(2) keep a register of and attest the official acts of the governor, including all appointments made by him, with date of commission and names of appointees and predecessors;

(3) affix the great seal, with his attestation, to

commissions, pardons, and other public instruments to which the official signature of the governor is required;

(4) record in proper books all conveyances made to the state and all articles of incorporation filed in his office;

(5) take and file in his office receipts for all books distributed by him and direct the county clerk of each county to do the same;

(6) certify to the governor the names of those persons who have received at any election the highest number of votes for any office, the incumbent of which is commissioned by the governor;

(7) furnish, on demand, to any person paying the fees therefor, a certified copy of all or any part of any law, record, or other instrument filed, deposited, or recorded in his office;

(8) keep a fee book in which must be entered all fees, commissions, and compensation of whatever nature or kind by him earned, collected, or charged, with the date, name of payer, paid or unpaid, and the nature of the service in each case, which book must be verified annually by his affidavit entered therein;

(9) file in his office descriptions of seals in use by the different state officers;

(10) discharge the duties of member of the board of examiners and of the board of land commissioners and all

other duties required of him by law;

~~(11) report to the governor as prescribed in 2-7-102;~~

~~(12)~~(11) register marks as provided in Title 30, chapter 13, part 3;

~~(13)~~(12) report annually to the legislative council all changes of names received pursuant to 27-31-205 for publication in the Laws of Montana;

~~(14)~~(13) report annually to the legislative council all watercourse name changes received pursuant to 85-2-134 for publication in the Laws of Montana;

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process as may be necessary to carry the same into execution;

(3) to account for and pay over to the proper officer all moneys which may come into his possession belonging to the state or to any county;

(4) to keep a register of all cases in which he is required to appear, which must during business hours be open to the inspection of the public. The register must show the county, district, and court in which the cases have been instituted and tried and whether they are civil or criminal. If civil, the register must show the nature of the demand, the stage of proceedings and, when prosecuted to judgment, a memorandum of the judgment, of any process issued thereon, and whether satisfied or not. If not satisfied, the register must show the return of the sheriff. If criminal, the register must show the nature of the crime, the mode of prosecution, the stage of proceedings and, when prosecuted to sentence, a memorandum of the sentence and of the execution thereof, if the same has been executed, and if not executed, of the reason of the delay or prevention. The attorney general must deliver the same to his successor in office.

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the condition of public business entrusted to their charge. The supervisory powers granted to the attorney general by this subsection include the power to order and direct county attorneys in all matters pertaining to the duties of their office. The county attorney must, when ordered or directed by the attorney general, promptly institute and diligently prosecute in the proper court and in the name of the state of Montana any criminal or civil action or special proceeding.

(6) when required by the public service or directed by the governor, to assist the county attorney of any county in the discharge of his duties;

(7) to give his opinion in writing, without fee, to the legislature or either house thereof, to any state officer, board, or commission, to any county attorney, to the city attorney of any city or town, and to the board of county commissioners of any county of the state when required upon any question of law relating to their respective offices. He shall give any such opinion within 3 months following the date it is requested unless he certifies in writing to the requesting party that the question is of sufficient complexity to require additional time. If an opinion issued by the attorney general conflicts with an opinion issued by a city attorney, county attorney, or an attorney employed or retained by any state officer,

board, commission, or department, the attorney general's opinion shall be controlling unless overruled by a state district court or the supreme court.

(8) to bid upon and purchase in the name of the state and under the direction of the board of investments any property offered for sale under execution issued upon judgments in favor of or for the use of the state and to enter satisfaction, in whole or in part, of such judgments as the consideration for such purchases;

(9) whenever the property of a judgment debtor in any judgment mentioned in the preceding subsection has been sold under a prior judgment or is subject to any judgment, lien, or encumbrance taking precedence of the judgment in favor of the state, under the direction of the board of investments, to redeem such property from such prior judgment, lien, or encumbrance. All sums of money necessary for such redemption must be paid out of any money appropriated for such purposes.

(10) when in his opinion it is necessary for the collection or enforcement of any judgment hereinbefore mentioned, to institute and prosecute, in behalf of the state, such suits or other proceedings as are necessary to set aside and annul all conveyances fraudulently made by such judgment debtors, the cost necessary to the prosecution must be paid out of any appropriations for the prosecution

of delinquents;

(11) to discharge the duties of a member of the board of examiners and state board of land commissioners and other duties prescribed by law;

~~(12) to report to the governor, at the time prescribed by 2-7-102, the condition of the affairs of his department and to accompany the same with a copy of his docket and of the reports received by him from county attorneys;~~

~~(13)~~(12) to prescribe the form of blanks to be used by the clerks of the district courts in issuing commitments to the several state institutions, admission to which requires a court commitment."

Section 6. Section 20-3-105, MCA, is amended to read:

"20-3-105. Administrative powers and duties. In administering the affairs of his office, the superintendent of public instruction shall have the power and it shall be his duty to:

(1) keep a record of his official acts and all documents applicable to the administration of the office, preserve all official reports submitted to him for the period required by law, and surrender them to his successor at the expiration of his term;

(2) preserve all books, educational media, instructional equipment, and any other articles of educational interest and value which come into his

possession and surrender them to his successor at the expiration of his term;

(3) cause the printing and distribution of all reports and forms necessary for the proper conduct of business by a district or school in the manner prescribed by the provisions of this title;

(4) provide and keep an official seal of the superintendent of public instruction by which his official acts shall be authenticated;

(5) whenever he deems necessary but not more than once every 4 years, cause the printing of a complete and updated volume of the school laws of the state which shall be offered and sold at cost of the printing and shipping to any school official or other person;

(6) whenever a replacement volume is not printed under the provisions of subsection (5), cause the printing of a cumulative supplement to the most recent volume of school laws immediately after the conclusion of any session of the legislature at which new school laws or amendments to the school laws were adopted. It shall be offered and sold at cost of the printing and shipping to any school official or other person.

~~(7) submit a written report to the governor of his activities during the immediately preceding fiscal biennium in accordance with the provisions of 2-7-102;~~

~~(8)~~(7) if deemed necessary, publish a biennial report of the superintendent of public instruction~~, as prescribed by 2-7-102~~;

~~(9)~~(8) counsel with and advise county superintendents on matters involving the welfare of the schools and, when requested, give a county superintendent a written answer to any question concerning school law;

~~(10)~~(9) call an annual meeting of the county superintendents when he deems it advisable;

~~(11)~~(10) as far as he shall find it practicable, address public assemblies on subjects pertaining to education in Montana; and

~~(12)~~(11) faithfully work in all practical and possible ways for the welfare of the public schools of the state."

Section 7. Section 20-25-301, MCA, is amended to read:

"20-25-301. Regents' powers and duties. The board of regents of higher education shall serve as regents of the Montana university system, shall use and adopt this style in all its dealings therewith, and shall:

(1) have general control and supervision of the units of the Montana university system, which shall be considered for all purposes one university;

(2) adopt rules, not inconsistent with the constitution and the laws of the state, for its own government which are proper and necessary for the execution

of the powers and duties conferred upon it by law;

(3) provide, subject to the laws of the state, rules for the government of the system;

(4) grant diplomas and degrees to the graduates of the system upon the recommendation of the faculties and have discretion to confer honorary degrees upon persons other than graduates upon the recommendation of the faculty of such institutions;

(5) adopt and use an official seal in the authentication of its acts;

(6) keep a record of its proceedings;

~~(7)--report-as-provided-in-2-7-102;~~

~~(8)~~(7) have, when not otherwise provided by law, control of all books, records, buildings, grounds, and other property of the system;

~~(9)~~(8) receive from the board of land commissioners, other boards, persons, or from the government of the United States all funds, incomes, and other property the system may be entitled to and use and appropriate the property for the specific purpose of the grant or donation;

~~(10)~~(9) have general control of all receipts and disbursements of the system;

~~(11)~~(10) appoint a president and faculty for each of the institutions of the system, appoint any other necessary officers, agents, and employees, and fix their compensation;

~~(12)~~(11) appoint an executive secretary of the system, who shall not be a unit president, fix his term of office and salary, and generally prescribe his duties. The executive secretary is not a member of the board, but he shall serve as the secretary for the regents.

~~(13)~~(12) appoint every 2 years a budget committee composed of four members selected from the appointive members of the regents which shall review the budget requests presented by the units of the system and transmit such requests and its recommendations to the regents;

~~(14)~~(13) confer upon the executive board of each of the units of the system such authority as may be deemed expedient relating to immediate control and management, other than authority relating to financial matters or the selection of the teachers, employees, and faculty;

~~(15)~~(14) confer, at the regents' discretion, upon the president and faculty of each of the units of the system for the best interest of the unit such authority relating to the immediate control and management, other than financial, and the selection of teachers and employees;

~~(16)~~(15) prevent unnecessary duplication of courses at the units of the system;

~~(17)~~(16) investigate the needs of the units by each member of the regents visiting each unit at least once each year;

~~(18)~~(17) appoint a certified professional geologist or registered mining engineer as the director of the Montana state bureau of mines and geology, who shall be designated the state geologist, and appoint any other necessary assistants and employees and fix their compensation. The regents shall prepare a report to each regular session of the legislature showing the progress and condition of the bureau, including any other necessary or required information.

~~(19)~~(18) supervise and control the agricultural experiment station, along with any executive or subordinate board or authority which may be appointed by the governor with the advice and consent of the regents;

~~(20)~~(19) adopt a seal bearing on its face the words "Montana university system", which shall remain in the custody of the executive secretary and which shall be affixed to all diplomas and all other papers, instruments, or documents which may require it."

Section 8. Section 22-1-503, MCA, is amended to read:

"22-1-503. Authority of board. The powers and duties of said board are as follows:

(1) to make rules, not inconsistent with law, for the government of the board and for the government and administration of the state law library, including rules designating when and for what periods of time the library

shall be open to the public and the office hours of the library;

(2) to appoint a librarian and prescribe the duties of such librarian when not otherwise provided for by law;

(3) to sell or exchange duplicate copies of books and pay the moneys arising therefrom into the state law library fund;

(4) to see that the books and other properties of the library are maintained in good order and repair and are protected from theft or injury;

(5) to draw from the state treasury at any time when needed for the legitimate expenses in maintaining and operating the library and acquiring books, reports, journals, and other works and properties therefor, including complete sets of statutory laws and codified laws of the United States of America, of the several states of the union, and of other jurisdictions, any moneys in the fund and available for such purposes;

~~(6)--to-report-as-provided-in-2-7-102;~~

~~(7)~~(6) to establish such lawful relations and working arrangements with the library of congress of the United States, with the copyright office therein, and with the superintendent of documents of the United States as may be for the benefit and advantage of the state law library and promote the acquisition of books and other works from such

sources as may be useful to those resorting to the facilities of the state law library."

Section 9. Section 22-2-106, MCA, is amended to read:

"22-2-106. Council duties. The duties of the council shall be to:

(1) encourage throughout the state the study and presentation of the arts and stimulate public interest and participation therein;

(2) cooperate with public and private institutions engaged within the state in artistic and cultural activities, including but not limited to music, theatre, dance, painting, sculpture, architecture, and allied arts and crafts, and make recommendations concerning appropriate methods to encourage participation in and appreciation of the arts to meet the legitimate needs and aspirations of persons in all parts of the state;

(3) foster public interest in the cultural heritage of our state and expand the state's cultural resources;

(4) encourage and assist freedom of artistic expression essential for the well-being of the arts;

~~(5)--report as provided in 2-7-102.~~"

Section 10. Section 37-1-106, MCA, is amended to read:

"37-1-106. Biennial report to governor and legislature. The department, in cooperation with each licensing board, shall prepare a biennial report. ~~In~~

~~addition to the information prescribed by the governor under 2-7-102, the~~ The biennial report of the department shall contain for each board a summary of the board's activities, the board's goals and objectives, a detailed breakdown of board revenues and expenditures, statistics illustrating board activities concerning licensing, summary of complaints received and their disposition, number of licenses revoked or suspended, legislative or court action affecting the board, and any other information the department or board considers relevant."

Section 11. Section 39-51-301, MCA, is amended to read:

"39-51-301. Administration -- duties and powers of department. (1) It shall be the duty of the department to administer this chapter and it shall have power and authority to adopt, amend, or rescind such rules, to employ such persons, make such expenditures, require such reports, make such investigations, and take such other action as it deems necessary or suitable to that end. Such rules shall be effective upon publication in the manner, not inconsistent with the provisions of this chapter, which the department shall prescribe.

(2) The department shall determine its own organization and methods of procedure in accordance with the provisions of this chapter and shall have an official seal

which shall be judicially noticed.

~~(3)--The--department--shall--report--as---provided---in 2-7-102.--Such--report--shall-include-a-balance-sheet-of-the money-in-the-fund-in--which--there--shall--be--provided,--if possible,-a-reserve-against-the-liability-in-future-years-to pay--benefits--in--excess-of-the-then-current-contributions, which--reserve--shall--be--set--up--by--the--department---in accordance--with--accepted-actuarial-principles-on-the-basis of-statistics-of-employment,-business--activity,--and--other relevant-factors-for-the-longest-possible-period.~~

~~(4)~~(3) Whenever the department believes that a change in contribution or benefit rates will become necessary to protect the solvency of the fund, it shall promptly so inform the governor and the legislature and make recommendations with respect thereto."

Section 12. Section 39-71-209, MCA, is amended to read:

"39-71-209. Publication of reports and bulletins authorized. The division shall have the power and authority to publish and distribute at its discretion from time to time~~,--in--addition--to-its-report-required-by-2-7-102,~~ such further reports and bulletins covering its operations, proceedings, and matters relative to its work as it may deem advisable."

Section 13. Section 69-14-115, MCA, is amended to

read:

"69-14-115. Investigation, enforcement, and report concerning railroad safety laws. (1) The commission shall:

(a) make inquiry into the observance by all railroads within this state of the laws of the United States and of Montana intended to safeguard the lives of the employees of persons or corporations engaged in operating the same;

(b) lay complaint before the proper state or federal officer, of any infraction of any of such laws; and

(c) prosecute before the proper court or tribunal any person guilty of violation of the penal provisions thereof.

(2) The commission shall in ~~the~~ an annual report ~~required-by-2-7-102~~ set out what effort it has made to carry out the provisions of this section, with the result thereof, and in detail what steps it has taken to prosecute any violations of any such acts of which it has secured information. A copy of this annual report shall be mailed to the secretary of the department of transportation."

NEW SECTION. Section 14. Repealer. Section 2-7-102, MCA, is repealed.

-End-

STATE OF MONTANA

REQUEST NO. 182-83

FISCAL NOTE

Form BD-15

In compliance with a written request received January 22, , 19 83 , there is hereby submitted a Fiscal Note for House Bill 346 pursuant to Title 5, Chapter 4, Part 2 of the Montana Code Annotated (MCA). Background information used in developing this Fiscal Note is available from the Office of Budget and Program Planning, to members of the Legislature upon request.

DESCRIPTION OF PROPOSED LEGISLATION:

House Bill 346 deletes the requirement that state agencies submit certain reports to the Governor and that the Governor prepares a biennial report to the legislature.

ASSUMPTIONS:

1) The cost of printing and distributing a biennial report would be $3,150 (500 copies of a 120 page report).
2) The last biennial report was produced in 1979. None were issued in 1981. The Executive Budget recommendation does include a request for funds to publish the report in late 1983 (FY84).
3) While staff time is expanded in state agencies to prepare the report to the Governor and in the Governor's Office to compile these agency reports into the biennial report to the legislature, it is difficult to estimate the cost associated with these preparations.

FISCAL IMPACT:

If the report were issued, there would be printing and distribution costs of $3,150 each biennium.

FISCAL NOTE 6:I/1

David M Lewis

BUDGET DIRECTOR

Office of Budget and Program Planning

Date: 1-25-83

Approved by Committee
on State Administration

House BILL NO. 346

INTRODUCED BY Keenan Nutcall Dg

BY REQUEST OF THE OFFICE OF BUDGET AND PROGRAM PLANNING

A BILL FOR AN ACT ENTITLED: "AN ACT TO DELETE THE REQUIREMENT THAT STATE AGENCIES AND THE GOVERNOR SUBMIT CERTAIN REPORTS; AMENDING SECTIONS 1-12-104, 2-7-103, 2-15-201, 2-15-401, 2-15-501, 20-3-105, 20-25-301, 22-1-503, 22-2-106, 37-1-106, 39-51-301, 39-71-209, AND 69-14-115, MCA; AND REPEALING SECTION 2-7-102, MCA."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 1-12-104, MCA, is amended to read:

"1-12-104. Duties of commissioners. (1) Each commissioner shall attend the meeting of the national conference of commissioners on uniform state laws and, both in and out of such national conference, shall do all in his power to promote uniformity in state laws upon all subjects where uniformity may be deemed desirable and practicable.

~~(2)--Said--commission--shall--report--as--provided---in 2-7-102.~~

~~(3)~~(2) It shall also be the duty of said commission to bring about as far as practicable the uniform judicial interpretation of all uniform laws."

Section 2. Section 2-7-103, MCA, is amended to read:

"2-7-103. Review by governor of executive branch -- ~~report-to-legislature.~~ ~~(1)~~ The office of the governor shall continuously study and evaluate the organizational structure, management practices, and functions of the executive branch and of each agency. The governor shall, by executive order or other means within the authority granted to him, take action to improve the manageability of the executive branch.

~~(2)--The-governor-shall-submit-a-report-to-each-regular legislative-session-concerning--the--duties--of--his--office under----subsection----(1)---of---this---section---and---his recommendations,-if--any,--for--the--transfer--of--functions between--agencies,-the-elimination-of-unnecessary-functions, or-other-recommendations-to-improve-the-manageability-of-the executive-branch."~~

Section 3. Section 2-15-201, MCA, is amended to read:

"2-15-201. Powers and duties of governor. In addition to the duties prescribed by the constitution, the governor shall perform the following duties:

(1) He shall supervise the official conduct of all executive and ministerial officers.

(2) He shall see that all offices are filled and the duties thereof performed or, in default thereof, apply such remedy as the law allows. If the remedy is imperfect, he shall acquaint the legislature therewith at its next

 SECOND READING

session.

(3) He shall make the appointments and supply the vacancies as required by law.

(4) He is the sole official organ of communication between the government of this state and the government of any other state or of the United States.

(5) Whenever any suit or legal proceeding is pending against this state or which may affect the title of this state to any property or which may result in any claim against the state, he may direct the attorney general to appear on behalf of the state and may employ such additional counsel as he may judge expedient.

(6) He may require the attorney general or county attorney of any county to inquire into the affairs or management of any corporation existing under the laws of this state.

(7) He may require the attorney general to aid the county attorney in the discharge of his duties.

(8) He may offer rewards not exceeding $1,000 each, payable out of the general fund, for the apprehension of any convict who has escaped from the state prison or any person who has committed or is charged with an offense punishable by death.

(9) He shall perform such duties respecting fugitives from justice as are prescribed by Title 46, chapter 30.

(10) He shall issue land warrants and patents, as prescribed in 77-2-342.

~~(11) He shall prepare a biennial report pursuant to 2-7-102.~~

~~(12)~~(11) He may require any officer or board to make special reports to him, upon demand, in writing.

~~(13)~~(12) He shall discharge the duties of member of the board of examiners, of nonvoting ex officio member of the state board of education, and of member of the board of land commissioners.

~~(14)~~(13) He has the other powers and must perform the other duties as are devolved upon him by this code or any other law of this state."

Section 4. Section 2-15-401, MCA, is amended to read:

"2-15-401. Duties of secretary of state. In addition to the duties prescribed by the constitution, it is the duty of the secretary of state to:

(1) attend at every session of the legislature for the purpose of receiving bills and resolutions and to perform such other duties as may be devolved upon him by resolution of the two houses or either of them;

(2) keep a register of and attest the official acts of the governor, including all appointments made by him, with date of commission and names of appointees and predecessors;

(3) affix the great seal, with his attestation, to

commissions, pardons, and other public instruments to which the official signature of the governor is required;

(4) record in proper books all conveyances made to the state and all articles of incorporation filed in his office;

(5) take and file in his office receipts for all books distributed by him and direct the county clerk of each county to do the same;

(6) certify to the governor the names of those persons who have received at any election the highest number of votes for any office, the incumbent of which is commissioned by the governor;

(7) furnish, on demand, to any person paying the fees therefor, a certified copy of all or any part of any law, record, or other instrument filed, deposited, or recorded in his office;

(8) keep a fee book in which must be entered all fees, commissions, and compensation of whatever nature or kind by him earned, collected, or charged, with the date, name of payer, paid or unpaid, and the nature of the service in each case, which book must be verified annually by his affidavit entered therein;

(9) file in his office descriptions of seals in use by the different state officers;

(10) discharge the duties of member of the board of examiners and of the board of land commissioners and all

other duties required of him by law;

~~(11) report to the governor as prescribed in 2-7-102;~~

~~(12)~~(11) register marks as provided in Title 30, chapter 13, part 3;

~~(13)~~(12) report annually to the legislative council all changes of names received pursuant to 27-31-205 for publication in the Laws of Montana;

~~(14)~~(13) report annually to the legislative council all watercourse name changes received pursuant to 85-2-134 for publication in the Laws of Montana;

~~(15)~~(14) keep a register of all applications for pardon or for commutation of any sentence, with a list of the official signatures and recommendations in favor of each application."

Section 5. Section 2-15-501, MCA, is amended to read:

"2-15-501. General duties. It is the duty of the attorney general:

(1) to attend the supreme court and prosecute or defend all causes to which the state or any officer thereof in his official capacity is a party and all causes to which any county may be a party unless the interest of the county is adverse to the state or some officer thereof acting in his official capacity;

(2) after judgment in any of the causes referred to in the preceding subsection, to direct the issuing of such

process as may be necessary to carry the same into execution;

(3) to account for and pay over to the proper officer all moneys which may come into his possession belonging to the state or to any county;

(4) to keep a register of all cases in which he is required to appear, which must during business hours be open to the inspection of the public. The register must show the county, district, and court in which the cases have been instituted and tried and whether they are civil or criminal. If civil, the register must show the nature of the demand, the stage of proceedings and, when prosecuted to judgment, a memorandum of the judgment, of any process issued thereon, and whether satisfied or not. If not satisfied, the register must show the return of the sheriff. If criminal, the register must show the nature of the crime, the mode of prosecution, the stage of proceedings and, when prosecuted to sentence, a memorandum of the sentence and of the execution thereof, if the same has been executed, and if not executed, of the reason of the delay or prevention. The attorney general must deliver the same to his successor in office.

(5) to exercise supervisory powers over county attorneys in all matters pertaining to the duties of their offices and from time to time require of them reports as to

the condition of public business entrusted to their charge. The supervisory powers granted to the attorney general by this subsection include the power to order and direct county attorneys in all matters pertaining to the duties of their office. The county attorney must, when ordered or directed by the attorney general, promptly institute and diligently prosecute in the proper court and in the name of the state of Montana any criminal or civil action or special proceeding.

(6) when required by the public service or directed by the governor, to assist the county attorney of any county in the discharge of his duties;

(7) to give his opinion in writing, without fee, to the legislature or either house thereof, to any state officer, board, or commission, to any county attorney, to the city attorney of any city or town, and to the board of county commissioners of any county of the state when required upon any question of law relating to their respective offices. He shall give any such opinion within 3 months following the date it is requested unless he certifies in writing to the requesting party that the question is of sufficient complexity to require additional time. If an opinion issued by the attorney general conflicts with an opinion issued by a city attorney, county attorney, or an attorney employed or retained by any state officer,

board, commission, or department, the attorney general's opinion shall be controlling unless overruled by a state district court or the supreme court.

(8) to bid upon and purchase in the name of the state and under the direction of the board of investments any property offered for sale under execution issued upon judgments in favor of or for the use of the state and to enter satisfaction, in whole or in part, of such judgments as the consideration for such purchases;

(9) whenever the property of a judgment debtor in any judgment mentioned in the preceding subsection has been sold under a prior judgment or is subject to any judgment, lien, or encumbrance taking precedence of the judgment in favor of the state, under the direction of the board of investments, to redeem such property from such prior judgment, lien, or encumbrance. All sums of money necessary for such redemption must be paid out of any money appropriated for such purposes.

(10) when in his opinion it is necessary for the collection or enforcement of any judgment hereinbefore mentioned, to institute and prosecute, in behalf of the state, such suits or other proceedings as are necessary to set aside and annul all conveyances fraudulently made by such judgment debtors, the cost necessary to the prosecution must be paid out of any appropriations for the prosecution

of delinquents;

(11) to discharge the duties of a member of the board of examiners and state board of land commissioners and other duties prescribed by law;

~~(12) to report to the governor, at the time prescribed by 2-7-102, the condition of the affairs of his department and to accompany the same with a copy of his docket and of the reports received by him from county attorneys;~~

~~(13)~~(12) to prescribe the form of blanks to be used by the clerks of the district courts in issuing commitments to the several state institutions, admission to which requires a court commitment."

Section 6. Section 20-3-105, MCA, is amended to read:

"20-3-105. Administrative powers and duties. In administering the affairs of his office, the superintendent of public instruction shall have the power and it shall be his duty to:

(1) keep a record of his official acts and all documents applicable to the administration of the office, preserve all official reports submitted to him for the period required by law, and surrender them to his successor at the expiration of his term;

(2) preserve all books, educational media, instructional equipment, and any other articles of educational interest and value which come into his

possession and surrender them to his successor at the expiration of his term;

(3) cause the printing and distribution of all reports and forms necessary for the proper conduct of business by a district or school in the manner prescribed by the provisions of this title;

(4) provide and keep an official seal of the superintendent of public instruction by which his official acts shall be authenticated;

(5) whenever he deems necessary but not more than once every 4 years, cause the printing of a complete and updated volume of the school laws of the state which shall be offered and sold at cost of the printing and shipping to any school official or other person;

(6) whenever a replacement volume is not printed under the provisions of subsection (5), cause the printing of a cumulative supplement to the most recent volume of school laws immediately after the conclusion of any session of the legislature at which new school laws or amendments to the school laws were adopted. It shall be offered and sold at cost of the printing and shipping to any school official or other person.

~~(7)--submit-a-written-report-to--the--governor--of--his activities--during-the-immediately-preceding-fiscal-biennium in-accordance-with-the-provisions-of-2-7-102;~~

~~(8)~~(7) if deemed necessary, publish a biennial report of the superintendent of public instruction~~, as prescribed by 2-7-102~~;

~~(9)~~(8) counsel with and advise county superintendents on matters involving the welfare of the schools and, when requested, give a county superintendent a written answer to any question concerning school law;

~~(10)~~(9) call an annual meeting of the county superintendents when he deems it advisable;

~~(11)~~(10) as far as he shall find it practicable, address public assemblies on subjects pertaining to education in Montana; and

~~(12)~~(11) faithfully work in all practical and possible ways for the welfare of the public schools of the state."

Section 7. Section 20-25-301, MCA, is amended to read:

"20-25-301. Regents' powers and duties. The board of regents of higher education shall serve as regents of the Montana university system, shall use and adopt this style in all its dealings therewith, and shall:

(1) have general control and supervision of the units of the Montana university system, which shall be considered for all purposes one university;

(2) adopt rules, not inconsistent with the constitution and the laws of the state, for its own government which are proper and necessary for the execution

of the powers and duties conferred upon it by law;

(3) provide, subject to the laws of the state, rules for the government of the system;

(4) grant diplomas and degrees to the graduates of the system upon the recommendation of the faculties and have discretion to confer honorary degrees upon persons other than graduates upon the recommendation of the faculty of such institutions;

(5) adopt and use an official seal in the authentication of its acts;

(6) keep a record of its proceedings;

~~(7)--report-as-provided-in-2-7-102;~~

~~(8)~~(7) have, when not otherwise provided by law, control of all books, records, buildings, grounds, and other property of the system;

~~(9)~~(8) receive from the board of land commissioners, other boards, persons, or from the government of the United States all funds, incomes, and other property the system may be entitled to and use and appropriate the property for the specific purpose of the grant or donation;

~~(10)~~(9) have general control of all receipts and disbursements of the system;

~~(11)~~(10) appoint a president and faculty for each of the institutions of the system, appoint any other necessary officers, agents, and employees, and fix their compensation;

~~(12)~~(11) appoint an executive secretary of the system, who shall not be a unit president, fix his term of office and salary, and generally prescribe his duties. The executive secretary is not a member of the board, but he shall serve as the secretary for the regents.

~~(13)~~(12) appoint every 2 years a budget committee composed of four members selected from the appointive members of the regents which shall review the budget requests presented by the units of the system and transmit such requests and its recommendations to the regents;

~~(14)~~(13) confer upon the executive board of each of the units of the system such authority as may be deemed expedient relating to immediate control and management, other than authority relating to financial matters or the selection of the teachers, employees, and faculty;

~~(15)~~(14) confer, at the regents' discretion, upon the president and faculty of each of the units of the system for the best interest of the unit such authority relating to the immediate control and management, other than financial, and the selection of teachers and employees;

~~(16)~~(15) prevent unnecessary duplication of courses at the units of the system;

~~(17)~~(16) investigate the needs of the units by each member of the regents visiting each unit at least once each year;

~~(18)~~(17) appoint a certified professional geologist or registered mining engineer as the director of the Montana state bureau of mines and geology, who shall be designated the state geologist, and appoint any other necessary assistants and employees and fix their compensation. The regents shall prepare a report to each regular session of the legislature showing the progress and condition of the bureau, including any other necessary or required information.

~~(19)~~(18) supervise and control the agricultural experiment station, along with any executive or subordinate board or authority which may be appointed by the governor with the advice and consent of the regents;

~~(20)~~(19) adopt a seal bearing on its face the words "Montana university system", which shall remain in the custody of the executive secretary and which shall be affixed to all diplomas and all other papers, instruments, or documents which may require it."

Section 8. Section 22-1-503, MCA, is amended to read:

"22-1-503. Authority of board. The powers and duties of said board are as follows:

(1) to make rules, not inconsistent with law, for the government of the board and for the government and administration of the state law library, including rules designating when and for what periods of time the library

shall be open to the public and the office hours of the library;

(2) to appoint a librarian and prescribe the duties of such librarian when not otherwise provided for by law;

(3) to sell or exchange duplicate copies of books and pay the moneys arising therefrom into the state law library fund;

(4) to see that the books and other properties of the library are maintained in good order and repair and are protected from theft or injury;

(5) to draw from the state treasury at any time when needed for the legitimate expenses in maintaining and operating the library and acquiring books, reports, journals, and other works and properties therefor, including complete sets of statutory laws and codified laws of the United States of America, of the several states of the union, and of other jurisdictions, any moneys in the fund and available for such purposes;

~~(6) to report as provided in 2-7-102;~~

~~(7)~~(6) to establish such lawful relations and working arrangements with the library of congress of the United States, with the copyright office therein, and with the superintendent of documents of the United States as may be for the benefit and advantage of the state law library and promote the acquisition of books and other works from such

sources as may be useful to those resorting to the facilities of the state law library."

Section 9. Section 22-2-106, MCA, is amended to read:

"22-2-106. Council duties. The duties of the council shall be to:

(1) encourage throughout the state the study and presentation of the arts and stimulate public interest and participation therein;

(2) cooperate with public and private institutions engaged within the state in artistic and cultural activities, including but not limited to music, theatre, dance, painting, sculpture, architecture, and allied arts and crafts, and make recommendations concerning appropriate methods to encourage participation in and appreciation of the arts to meet the legitimate needs and aspirations of persons in all parts of the state;

(3) foster public interest in the cultural heritage of our state and expand the state's cultural resources;

(4) encourage and assist freedom of artistic expression essential for the well-being of the arts;

~~(5)--report as provided in 2-7-102.~~"

Section 10. Section 37-1-106, MCA, is amended to read:

"37-1-106. Biennial report to governor and legislature. The department, in cooperation with each licensing board, shall prepare a biennial report. ~~In~~

~~addition to the information prescribed by the governor under 2-7-102, the~~ The biennial report of the department shall contain for each board a summary of the board's activities, the board's goals and objectives, a detailed breakdown of board revenues and expenditures, statistics illustrating board activities concerning licensing, summary of complaints received and their disposition, number of licenses revoked or suspended, legislative or court action affecting the board, and any other information the department or board considers relevant."

Section 11. Section 39-51-301, MCA, is amended to read:

"39-51-301. Administration -- duties and powers of department. (1) It shall be the duty of the department to administer this chapter and it shall have power and authority to adopt, amend, or rescind such rules, to employ such persons, make such expenditures, require such reports, make such investigations, and take such other action as it deems necessary or suitable to that end. Such rules shall be effective upon publication in the manner, not inconsistent with the provisions of this chapter, which the department shall prescribe.

(2) The department shall determine its own organization and methods of procedure in accordance with the provisions of this chapter and shall have an official seal

which shall be judicially noticed.

~~(3)--The--department--shall--report--as---provided---in 2-7-102.--Such--report--shall-include-a-balance-sheet-of-the money-in-the-fund-in--which--there--shall--be--provided,--if possible,-a-reserve-against-the-liability-in-future-years-to pay--benefits--in--excess-of-the-then-current-contributions, which--reserve--shall--be--set--up--by--the--department---in accordance--with--accepted-actuarial-principles-on-the-basis of-statistics-of-employment,-business--activity,--and--other relevant-factors-for-the-longest-possible-period.~~

~~(4)~~(3) Whenever the department believes that a change in contribution or benefit rates will become necessary to protect the solvency of the fund, it shall promptly so inform the governor and the legislature and make recommendations with respect thereto."

Section 12. Section 39-71-209, MCA, is amended to read:

"39-71-209. Publication of reports and bulletins authorized. The division shall have the power and authority to publish and distribute at its discretion from time to time~~,--in--addition--to-its-report-required-by-2-7-102,~~ such further reports and bulletins covering its operations, proceedings, and matters relative to its work as it may deem advisable."

Section 13. Section 69-14-115, MCA, is amended to

read:

"69-14-115. Investigation, enforcement, and report concerning railroad safety laws. (1) The commission shall:

(a) make inquiry into the observance by all railroads within this state of the laws of the United States and of Montana intended to safeguard the lives of the employees of persons or corporations engaged in operating the same;

(b) lay complaint before the proper state or federal officer, of any infraction of any of such laws; and

(c) prosecute before the proper court or tribunal any person guilty of violation of the penal provisions thereof.

(2) The commission shall in ~~the~~ an annual report ~~required-by-2-7-102~~ set out what effort it has made to carry out the provisions of this section, with the result thereof, and in detail what steps it has taken to prosecute any violations of any such acts of which it has secured information. A copy of this annual report shall be mailed to the secretary of the department of transportation."

NEW SECTION. Section 14. Repealer. Section 2-7-102, MCA, is repealed.

-End-

House BILL NO. 346

INTRODUCED BY Keenan Mulcay Day

BY REQUEST OF THE OFFICE OF BUDGET AND PROGRAM PLANNING

A BILL FOR AN ACT ENTITLED: "AN ACT TO DELETE THE REQUIREMENT THAT STATE AGENCIES AND THE GOVERNOR SUBMIT CERTAIN REPORTS; AMENDING SECTIONS 1-12-104, 2-7-103, 2-15-201, 2-15-401, 2-15-501, 20-3-105, 20-25-301, 22-1-503, 22-2-106, 37-1-106, 39-51-301, 39-71-209, AND 69-14-115, MCA; AND REPEALING SECTION 2-7-102, MCA."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 1-12-104, MCA, is amended to read:

"1-12-104. Duties of commissioners. (1) Each commissioner shall attend the meeting of the national conference of commissioners on uniform state laws and, both in and out of such national conference, shall do all in his power to promote uniformity in state laws upon all subjects where uniformity may be deemed desirable and practicable.

~~(2) Said commission shall report as provided in 2-7-102.~~

~~(3)~~(2) It shall also be the duty of said commission to bring about as far as practicable the uniform judicial interpretation of all uniform laws."

Section 2. Section 2-7-103, MCA, is amended to read:

"2-7-103. Review by governor of executive branch ~~— report to legislature.~~ ~~(1)~~ The office of the governor shall continuously study and evaluate the organizational structure, management practices, and functions of the executive branch and of each agency. The governor shall, by executive order or other means within the authority granted to him, take action to improve the manageability of the executive branch.

~~(2) The governor shall submit a report to each regular legislative session concerning the duties of his office under subsection (1) of this section and his recommendations, if any, for the transfer of functions between agencies, the elimination of unnecessary functions, or other recommendations to improve the manageability of the executive branch.~~"

Section 3. Section 2-15-201, MCA, is amended to read:

"2-15-201. Powers and duties of governor. In addition to the duties prescribed by the constitution, the governor shall perform the following duties:

(1) He shall supervise the official conduct of all executive and ministerial officers.

(2) He shall see that all offices are filled and the duties thereof performed or, in default thereof, apply such remedy as the law allows. If the remedy is imperfect, he shall acquaint the legislature therewith at its next

THIRD READING
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session.

(3) He shall make the appointments and supply the vacancies as required by law.

(4) He is the sole official organ of communication between the government of this state and the government of any other state or of the United States.

(5) Whenever any suit or legal proceeding is pending against this state or which may affect the title of this state to any property or which may result in any claim against the state, he may direct the attorney general to appear on behalf of the state and may employ such additional counsel as he may judge expedient.

(6) He may require the attorney general or county attorney of any county to inquire into the affairs or management of any corporation existing under the laws of this state.

(7) He may require the attorney general to aid the county attorney in the discharge of his duties.

(8) He may offer rewards not exceeding $1,000 each, payable out of the general fund, for the apprehension of any convict who has escaped from the state prison or any person who has committed or is charged with an offense punishable by death.

(9) He shall perform such duties respecting fugitives from justice as are prescribed by Title 46, chapter 30.

(10) He shall issue land warrants and patents, as prescribed in 77-2-342.

~~(11) He shall prepare a biennial report pursuant to 2-7-102.~~

~~(12)~~(11) He may require any officer or board to make special reports to him, upon demand, in writing.

~~(13)~~(12) He shall discharge the duties of member of the board of examiners, of nonvoting ex officio member of the state board of education, and of member of the board of land commissioners.

~~(14)~~(13) He has the other powers and must perform the other duties as are devolved upon him by this code or any other law of this state."

Section 4. Section 2-15-401, MCA, is amended to read:

"2-15-401. Duties of secretary of state. In addition to the duties prescribed by the constitution, it is the duty of the secretary of state to:

(1) attend at every session of the legislature for the purpose of receiving bills and resolutions and to perform such other duties as may be devolved upon him by resolution of the two houses or either of them;

(2) keep a register of and attest the official acts of the governor, including all appointments made by him, with date of commission and names of appointees and predecessors;

(3) affix the great seal, with his attestation, to

commissions, pardons, and other public instruments to which the official signature of the governor is required;

(4) record in proper books all conveyances made to the state and all articles of incorporation filed in his office;

(5) take and file in his office receipts for all books distributed by him and direct the county clerk of each county to do the same;

(6) certify to the governor the names of those persons who have received at any election the highest number of votes for any office, the incumbent of which is commissioned by the governor;

(7) furnish, on demand, to any person paying the fees therefor, a certified copy of all or any part of any law, record, or other instrument filed, deposited, or recorded in his office;

(8) keep a fee book in which must be entered all fees, commissions, and compensation of whatever nature or kind by him earned, collected, or charged, with the date, name of payer, paid or unpaid, and the nature of the service in each case, which book must be verified annually by his affidavit entered therein;

(9) file in his office descriptions of seals in use by the different state officers;

(10) discharge the duties of member of the board of examiners and of the board of land commissioners and all

other duties required of him by law;

~~(11) report to the governor as prescribed in 2-7-102;~~

~~(12)~~(11) register marks as provided in Title 30, chapter 13, part 3;

~~(13)~~(12) report annually to the legislative council all changes of names received pursuant to 27-31-205 for publication in the Laws of Montana;

~~(14)~~(13) report annually to the legislative council all watercourse name changes received pursuant to 85-2-134 for publication in the Laws of Montana;

~~(15)~~(14) keep a register of all applications for pardon or for commutation of any sentence, with a list of the official signatures and recommendations in favor of each application."

Section 5. Section 2-15-501, MCA, is amended to read:

"2-15-501. General duties. It is the duty of the attorney general:

(1) to attend the supreme court and prosecute or defend all causes to which the state or any officer thereof in his official capacity is a party and all causes to which any county may be a party unless the interest of the county is adverse to the state or some officer thereof acting in his official capacity;

(2) after judgment in any of the causes referred to in the preceding subsection, to direct the issuing of such

process as may be necessary to carry the same into execution;

(3) to account for and pay over to the proper officer all moneys which may come into his possession belonging to the state or to any county;

(4) to keep a register of all cases in which he is required to appear, which must during business hours be open to the inspection of the public. The register must show the county, district, and court in which the cases have been instituted and tried and whether they are civil or criminal. If civil, the register must show the nature of the demand, the stage of proceedings and, when prosecuted to judgment, a memorandum of the judgment, of any process issued thereon, and whether satisfied or not. If not satisfied, the register must show the return of the sheriff. If criminal, the register must show the nature of the crime, the mode of prosecution, the stage of proceedings and, when prosecuted to sentence, a memorandum of the sentence and of the execution thereof, if the same has been executed, and if not executed, of the reason of the delay or prevention. The attorney general must deliver the same to his successor in office.

(5) to exercise supervisory powers over county attorneys in all matters pertaining to the duties of their offices and from time to time require of them reports as to

the condition of public business entrusted to their charge. The supervisory powers granted to the attorney general by this subsection include the power to order and direct county attorneys in all matters pertaining to the duties of their office. The county attorney must, when ordered or directed by the attorney general, promptly institute and diligently prosecute in the proper court and in the name of the state of Montana any criminal or civil action or special proceeding.

(6) when required by the public service or directed by the governor, to assist the county attorney of any county in the discharge of his duties;

(7) to give his opinion in writing, without fee, to the legislature or either house thereof, to any state officer, board, or commission, to any county attorney, to the city attorney of any city or town, and to the board of county commissioners of any county of the state when required upon any question of law relating to their respective offices. He shall give any such opinion within 3 months following the date it is requested unless he certifies in writing to the requesting party that the question is of sufficient complexity to require additional time. If an opinion issued by the attorney general conflicts with an opinion issued by a city attorney, county attorney, or an attorney employed or retained by any state officer,

board, commission, or department, the attorney general's opinion shall be controlling unless overruled by a state district court or the supreme court.

(8) to bid upon and purchase in the name of the state and under the direction of the board of investments any property offered for sale under execution issued upon judgments in favor of or for the use of the state and to enter satisfaction, in whole or in part, of such judgments as the consideration for such purchases;

(9) whenever the property of a judgment debtor in any judgment mentioned in the preceding subsection has been sold under a prior judgment or is subject to any judgment, lien, or encumbrance taking precedence of the judgment in favor of the state, under the direction of the board of investments, to redeem such property from such prior judgment, lien, or encumbrance. All sums of money necessary for such redemption must be paid out of any money appropriated for such purposes.

(10) when in his opinion it is necessary for the collection or enforcement of any judgment hereinbefore mentioned, to institute and prosecute, in behalf of the state, such suits or other proceedings as are necessary to set aside and annul all conveyances fraudulently made by such judgment debtors, the cost necessary to the prosecution must be paid out of any appropriations for the prosecution

of delinquents;

(11) to discharge the duties of a member of the board of examiners and state board of land commissioners and other duties prescribed by law;

~~(12) to report to the governor at the time prescribed by 2-7-102, the condition of the affairs of his department and to accompany the same with a copy of his docket and of the reports received by him from county attorneys;~~

~~(13)~~(12) to prescribe the form of blanks to be used by the clerks of the district courts in issuing commitments to the several state institutions, admission to which requires a court commitment."

Section 6. Section 20-3-105, MCA, is amended to read:

"20-3-105. Administrative powers and duties. In administering the affairs of his office, the superintendent of public instruction shall have the power and it shall be his duty to:

(1) keep a record of his official acts and all documents applicable to the administration of the office, preserve all official reports submitted to him for the period required by law, and surrender them to his successor at the expiration of his term;

(2) preserve all books, educational media, instructional equipment, and any other articles of educational interest and value which come into his

possession and surrender them to his successor at the expiration of his term;

(3) cause the printing and distribution of all reports and forms necessary for the proper conduct of business by a district or school in the manner prescribed by the provisions of this title;

(4) provide and keep an official seal of the superintendent of public instruction by which his official acts shall be authenticated;

(5) whenever he deems necessary but not more than once every 4 years, cause the printing of a complete and updated volume of the school laws of the state which shall be offered and sold at cost of the printing and shipping to any school official or other person;

(6) whenever a replacement volume is not printed under the provisions of subsection (5), cause the printing of a cumulative supplement to the most recent volume of school laws immediately after the conclusion of any session of the legislature at which new school laws or amendments to the school laws were adopted. It shall be offered and sold at cost of the printing and shipping to any school official or other person.

~~(7) submit a written report to the governor of his activities during the immediately preceding fiscal biennium in accordance with the provisions of 2-7-102;~~

~~(8)~~(7) if deemed necessary, publish a biennial report of the superintendent of public instruction~~, as prescribed by 2-7-102~~;

~~(9)~~(8) counsel with and advise county superintendents on matters involving the welfare of the schools and, when requested, give a county superintendent a written answer to any question concerning school law;

~~(10)~~(9) call an annual meeting of the county superintendents when he deems it advisable;

~~(11)~~(10) as far as he shall find it practicable, address public assemblies on subjects pertaining to education in Montana; and

~~(12)~~(11) faithfully work in all practical and possible ways for the welfare of the public schools of the state."

Section 7. Section 20-25-301, MCA, is amended to read:

"20-25-301. Regents' powers and duties. The board of regents of higher education shall serve as regents of the Montana university system, shall use and adopt this style in all its dealings therewith, and shall:

(1) have general control and supervision of the units of the Montana university system, which shall be considered for all purposes one university;

(2) adopt rules, not inconsistent with the constitution and the laws of the state, for its own government which are proper and necessary for the execution

of the powers and duties conferred upon it by law;

(3) provide, subject to the laws of the state, rules for the government of the system;

(4) grant diplomas and degrees to the graduates of the system upon the recommendation of the faculties and have discretion to confer honorary degrees upon persons other than graduates upon the recommendation of the faculty of such institutions;

(5) adopt and use an official seal in the authentication of its acts;

(6) keep a record of its proceedings;

~~(7) report as provided in 2-7-102;~~

~~(8)~~(7) have, when not otherwise provided by law, control of all books, records, buildings, grounds, and other property of the system;

~~(9)~~(8) receive from the board of land commissioners, other boards, persons, or from the government of the United States all funds, incomes, and other property the system may be entitled to and use and appropriate the property for the specific purpose of the grant or donation;

~~(10)~~(9) have general control of all receipts and disbursements of the system;

~~(11)~~(10) appoint a president and faculty for each of the institutions of the system, appoint any other necessary officers, agents, and employees, and fix their compensation;

~~(12)~~(11) appoint an executive secretary of the system, who shall not be a unit president, fix his term of office and salary, and generally prescribe his duties. The executive secretary is not a member of the board, but he shall serve as the secretary for the regents.

~~(13)~~(12) appoint every 2 years a budget committee composed of four members selected from the appointive members of the regents which shall review the budget requests presented by the units of the system and transmit such requests and its recommendations to the regents;

~~(14)~~(13) confer upon the executive board of each of the units of the system such authority as may be deemed expedient relating to immediate control and management, other than authority relating to financial matters or the selection of the teachers, employees, and faculty;

~~(15)~~(14) confer, at the regents' discretion, upon the president and faculty of each of the units of the system for the best interest of the unit such authority relating to the immediate control and management, other than financial, and the selection of teachers and employees;

~~(16)~~(15) prevent unnecessary duplication of courses at the units of the system;

~~(17)~~(16) investigate the needs of the units by each member of the regents visiting each unit at least once each year;

~~(18)~~(17) appoint a certified professional geologist or registered mining engineer as the director of the Montana state bureau of mines and geology, who shall be designated the state geologist, and appoint any other necessary assistants and employees and fix their compensation. The regents shall prepare a report to each regular session of the legislature showing the progress and condition of the bureau, including any other necessary or required information.

~~(19)~~(18) supervise and control the agricultural experiment station, along with any executive or subordinate board or authority which may be appointed by the governor with the advice and consent of the regents;

~~(20)~~(19) adopt a seal bearing on its face the words "Montana university system", which shall remain in the custody of the executive secretary and which shall be affixed to all diplomas and all other papers, instruments, or documents which may require it."

Section 8. Section 22-1-503, MCA, is amended to read:

"22-1-503. Authority of board. The powers and duties of said board are as follows:

(1) to make rules, not inconsistent with law, for the government of the board and for the government and administration of the state law library, including rules designating when and for what periods of time the library

shall be open to the public and the office hours of the library;

(2) to appoint a librarian and prescribe the duties of such librarian when not otherwise provided for by law;

(3) to sell or exchange duplicate copies of books and pay the moneys arising therefrom into the state law library fund;

(4) to see that the books and other properties of the library are maintained in good order and repair and are protected from theft or injury;

(5) to draw from the state treasury at any time when needed for the legitimate expenses in maintaining and operating the library and acquiring books, reports, journals, and other works and properties therefor, including complete sets of statutory laws and codified laws of the United States of America, of the several states of the union, and of other jurisdictions, any moneys in the fund and available for such purposes;

~~(6) to report as provided in 2-7-102;~~

~~(7)~~(6) to establish such lawful relations and working arrangements with the library of congress of the United States, with the copyright office therein, and with the superintendent of documents of the United States as may be for the benefit and advantage of the state law library and promote the acquisition of books and other works from such

sources as may be useful to those resorting to the facilities of the state law library."

Section 9. Section 22-2-106, MCA, is amended to read:

"22-2-106. Council duties. The duties of the council shall be to:

(1) encourage throughout the state the study and presentation of the arts and stimulate public interest and participation therein;

(2) cooperate with public and private institutions engaged within the state in artistic and cultural activities, including but not limited to music, theatre, dance, painting, sculpture, architecture, and allied arts and crafts, and make recommendations concerning appropriate methods to encourage participation in and appreciation of the arts to meet the legitimate needs and aspirations of persons in all parts of the state;

(3) foster public interest in the cultural heritage of our state and expand the state's cultural resources;

(4) encourage and assist freedom of artistic expression essential for the well-being of the arts;

~~(5)--report-as-provided-in-2-7-102.~~"

Section 10. Section 37-1-106, MCA, is amended to read:

"37-1-106. Biennial report to governor and legislature. The department, in cooperation with each licensing board, shall prepare a biennial report. ~~In~~

~~addition-to-the-information-prescribed-by-the-governor-under 2-7-102,-the~~ The biennial report of the department shall contain for each board a summary of the board's activities, the board's goals and objectives, a detailed breakdown of board revenues and expenditures, statistics illustrating board activities concerning licensing, summary of complaints received and their disposition, number of licenses revoked or suspended, legislative or court action affecting the board, and any other information the department or board considers relevant."

Section 11. Section 39-51-301, MCA, is amended to read:

"39-51-301. Administration -- duties and powers of department. (1) It shall be the duty of the department to administer this chapter and it shall have power and authority to adopt, amend, or rescind such rules, to employ such persons, make such expenditures, require such reports, make such investigations, and take such other action as it deems necessary or suitable to that end. Such rules shall be effective upon publication in the manner, not inconsistent with the provisions of this chapter, which the department shall prescribe.

(2) The department shall determine its own organization and methods of procedure in accordance with the provisions of this chapter and shall have an official seal

which shall be judicially noticed.

~~(3)--The--department--shall--report--as---provided---in 2-7-102.--Such--report--shall-include-a-balance-sheet-of-the money-in-the-fund-in--which--there--shall--be--provided--if possible,-a-reserve-against-the-liability-in-future-years-to pay--benefits--in--excess-of-the-then-current-contributions, which--reserve--shall--be--set--up--by--the--department---in accordance--with--accepted-actuarial-principles-on-the-basis of-statistics-of-employment,-business--activity,--and--other relevant-factors-for-the-longest-possible-period.~~

~~(4)~~(3) Whenever the department believes that a change in contribution or benefit rates will become necessary to protect the solvency of the fund, it shall promptly so inform the governor and the legislature and make recommendations with respect thereto."

Section 12. Section 39-71-209, MCA, is amended to read:

"39-71-209. Publication of reports and bulletins authorized. The division shall have the power and authority to publish and distribute at its discretion from time to time,~~--in--addition--to-its-report-required-by-2-7-102,~~ such further reports and bulletins covering its operations, proceedings, and matters relative to its work as it may deem advisable."

Section 13. Section 69-14-115, MCA, is amended to

read:

"69-14-115. Investigation, enforcement, and report concerning railroad safety laws. (1) The commission shall:

(a) make inquiry into the observance by all railroads within this state of the laws of the United States and of Montana intended to safeguard the lives of the employees of persons or corporations engaged in operating the same;

(b) lay complaint before the proper state or federal officer, of any infraction of any of such laws; and

(c) prosecute before the proper court or tribunal any person guilty of violation of the penal provisions thereof.

(2) The commission shall in ~~the~~ an annual report ~~required-by-2-7-102~~ set out what effort it has made to carry out the provisions of this section, with the result thereof, and in detail what steps it has taken to prosecute any violations of any such acts of which it has secured information. A copy of this annual report shall be mailed to the secretary of the department of transportation."

NEW SECTION. Section 14. Repealer. Section 2-7-102, MCA, is repealed.

-End-

HOUSE BILL NO. 346

INTRODUCED BY KEENAN, METCALF, DOZIER

BY REQUEST OF THE OFFICE OF BUDGET AND PROGRAM PLANNING

A BILL FOR AN ACT ENTITLED: "AN ACT TO DELETE THE REQUIREMENT THAT STATE AGENCIES AND THE GOVERNOR SUBMIT CERTAIN REPORTS; AMENDING SECTIONS 1-12-104, 2-7-103, 2-15-201, 2-15-401, 2-15-501, 20-3-105, 20-25-301, 22-1-503, 22-2-106, 37-1-106, 39-51-301, 39-71-209, AND 69-14-115, MCA; AND REPEALING SECTION 2-7-102, MCA."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 1-12-104, MCA, is amended to read:

"1-12-104. Duties of commissioners. (1) Each commissioner shall attend the meeting of the national conference of commissioners on uniform state laws and, both in and out of such national conference, shall do all in his power to promote uniformity in state laws upon all subjects where uniformity may be deemed desirable and practicable.

~~(2)--Said--commission--shall--report--as--provided---in 2-7-102.~~

~~(3)~~(2) It shall also be the duty of said commission to bring about as far as practicable the uniform judicial interpretation of all uniform laws."

Section 2. Section 2-7-103, MCA, is amended to read:

"2-7-103. Review by governor of executive branch -- ~~report-to-legislature. (1)~~ The office of the governor shall continuously study and evaluate the organizational structure, management practices, and functions of the executive branch and of each agency. The governor shall, by executive order or other means within the authority granted to him, take action to improve the manageability of the executive branch.

~~(2)--The-governor-shall-submit-a-report-to-each-regular legislative-session-concerning--the--duties--of--his--office under----subsection----(1)---of---this---section---and---his recommendations,-if--any,--for--the--transfer--of--functions between--agencies,-the-elimination-of-unnecessary-functions, or-other-recommendations-to-improve-the-manageability-of-the executive-branch."~~

Section 3. Section 2-15-201, MCA, is amended to read:

"2-15-201. Powers and duties of governor. In addition to the duties prescribed by the constitution, the governor shall perform the following duties:

(1) He shall supervise the official conduct of all executive and ministerial officers.

(2) He shall see that all offices are filled and the duties thereof performed or, in default thereof, apply such remedy as the law allows. If the remedy is imperfect, he shall acquaint the legislature therewith at its next

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session.

(3) He shall make the appointments and supply the vacancies as required by law.

(4) He is the sole official organ of communication between the government of this state and the government of any other state or of the United States.

(5) Whenever any suit or legal proceeding is pending against this state or which may affect the title of this state to any property or which may result in any claim against the state, he may direct the attorney general to appear on behalf of the state and may employ such additional counsel as he may judge expedient.

(6) He may require the attorney general or county attorney of any county to inquire into the affairs or management of any corporation existing under the laws of this state.

(7) He may require the attorney general to aid the county attorney in the discharge of his duties.

(8) He may offer rewards not exceeding $1,000 each, payable out of the general fund, for the apprehension of any convict who has escaped from the state prison or any person who has committed or is charged with an offense punishable by death.

(9) He shall perform such duties respecting fugitives from justice as are prescribed by Title 46, chapter 30.

(10) He shall issue land warrants and patents, as prescribed in 77-2-342.

~~(11) He shall prepare a biennial report pursuant to 2-7-102.~~

~~(12)~~(11) He may require any officer or board to make special reports to him, upon demand, in writing.

~~(13)~~(12) He shall discharge the duties of member of the board of examiners, of nonvoting ex officio member of the state board of education, and of member of the board of land commissioners.

~~(14)~~(13) He has the other powers and must perform the other duties as are devolved upon him by this code or any other law of this state."

Section 4. Section 2-15-401, MCA, is amended to read:

"2-15-401. Duties of secretary of state. In addition to the duties prescribed by the constitution, it is the duty of the secretary of state to:

(1) attend at every session of the legislature for the purpose of receiving bills and resolutions and to perform such other duties as may be devolved upon him by resolution of the two houses or either of them;

(2) keep a register of and attest the official acts of the governor, including all appointments made by him, with date of commission and names of appointees and predecessors;

(3) affix the great seal, with his attestation, to

commissions, pardons, and other public instruments to which the official signature of the governor is required;

(4) record in proper books all conveyances made to the state and all articles of incorporation filed in his office;

(5) take and file in his office receipts for all books distributed by him and direct the county clerk of each county to do the same;

(6) certify to the governor the names of those persons who have received at any election the highest number of votes for any office, the incumbent of which is commissioned by the governor;

(7) furnish, on demand, to any person paying the fees therefor, a certified copy of all or any part of any law, record, or other instrument filed, deposited, or recorded in his office;

(8) keep a fee book in which must be entered all fees, commissions, and compensation of whatever nature or kind by him earned, collected, or charged, with the date, name of payer, paid or unpaid, and the nature of the service in each case, which book must be verified annually by his affidavit entered therein;

(9) file in his office descriptions of seals in use by the different state officers;

(10) discharge the duties of member of the board of examiners and of the board of land commissioners and all

other duties required of him by law;

~~(11) report to the governor as prescribed in 2-7-102;~~

~~(12)~~(11) register marks as provided in Title 30, chapter 13, part 3;

~~(13)~~(12) report annually to the legislative council all changes of names received pursuant to 27-31-205 for publication in the Laws of Montana;

~~(14)~~(13) report annually to the legislative council all watercourse name changes received pursuant to 85-2-134 for publication in the Laws of Montana;

~~(15)~~(14) keep a register of all applications for pardon or for commutation of any sentence, with a list of the official signatures and recommendations in favor of each application."

Section 5. Section 2-15-501, MCA, is amended to read:

"2-15-501. General duties. It is the duty of the attorney general:

(1) to attend the supreme court and prosecute or defend all causes to which the state or any officer thereof in his official capacity is a party and all causes to which any county may be a party unless the interest of the county is adverse to the state or some officer thereof acting in his official capacity;

(2) after judgment in any of the causes referred to in the preceding subsection, to direct the issuing of such

process as may be necessary to carry the same into execution;

(3) to account for and pay over to the proper officer all moneys which may come into his possession belonging to the state or to any county;

(4) to keep a register of all cases in which he is required to appear, which must during business hours be open to the inspection of the public. The register must show the county, district, and court in which the cases have been instituted and tried and whether they are civil or criminal. If civil, the register must show the nature of the demand, the stage of proceedings and, when prosecuted to judgment, a memorandum of the judgment, of any process issued thereon, and whether satisfied or not. If not satisfied, the register must show the return of the sheriff. If criminal, the register must show the nature of the crime, the mode of prosecution, the stage of proceedings and, when prosecuted to sentence, a memorandum of the sentence and of the execution thereof, if the same has been executed, and if not executed, of the reason of the delay or prevention. The attorney general must deliver the same to his successor in office.

(5) to exercise supervisory powers over county attorneys in all matters pertaining to the duties of their offices and from time to time require of them reports as to

the condition of public business entrusted to their charge. The supervisory powers granted to the attorney general by this subsection include the power to order and direct county attorneys in all matters pertaining to the duties of their office. The county attorney must, when ordered or directed by the attorney general, promptly institute and diligently prosecute in the proper court and in the name of the state of Montana any criminal or civil action or special proceeding.

(6) when required by the public service or directed by the governor, to assist the county attorney of any county in the discharge of his duties;

(7) to give his opinion in writing, without fee, to the legislature or either house thereof, to any state officer, board, or commission, to any county attorney, to the city attorney of any city or town, and to the board of county commissioners of any county of the state when required upon any question of law relating to their respective offices. He shall give any such opinion within 3 months following the date it is requested unless he certifies in writing to the requesting party that the question is of sufficient complexity to require additional time. If an opinion issued by the attorney general conflicts with an opinion issued by a city attorney, county attorney, or an attorney employed or retained by any state officer,

board, commission, or department, the attorney general's opinion shall be controlling unless overruled by a state district court or the supreme court.

(8) to bid upon and purchase in the name of the state and under the direction of the board of investments any property offered for sale under execution issued upon judgments in favor of or for the use of the state and to enter satisfaction, in whole or in part, of such judgments as the consideration for such purchases;

(9) whenever the property of a judgment debtor in any judgment mentioned in the preceding subsection has been sold under a prior judgment or is subject to any judgment, lien, or encumbrance taking precedence of the judgment in favor of the state, under the direction of the board of investments, to redeem such property from such prior judgment, lien, or encumbrance. All sums of money necessary for such redemption must be paid out of any money appropriated for such purposes.

(10) when in his opinion it is necessary for the collection or enforcement of any judgment hereinbefore mentioned, to institute and prosecute, in behalf of the state, such suits or other proceedings as are necessary to set aside and annul all conveyances fraudulently made by such judgment debtors, the cost necessary to the prosecution must be paid out of any appropriations for the prosecution

of delinquents;

(11) to discharge the duties of a member of the board of examiners and state board of land commissioners and other duties prescribed by law;

~~(12) to report to the governor, at the time prescribed by 2-7-102, the condition of the affairs of his department and to accompany the same with a copy of his docket and of the reports received by him from county attorneys;~~

~~(13)~~(12) to prescribe the form of blanks to be used by the clerks of the district courts in issuing commitments to the several state institutions, admission to which requires a court commitment."

Section 6. Section 20-3-105, MCA, is amended to read:

"20-3-105. Administrative powers and duties. In administering the affairs of his office, the superintendent of public instruction shall have the power and it shall be his duty to:

(1) keep a record of his official acts and all documents applicable to the administration of the office, preserve all official reports submitted to him for the period required by law, and surrender them to his successor at the expiration of his term;

(2) preserve all books, educational media, instructional equipment, and any other articles of educational interest and value which come into his

possession and surrender them to his successor at the expiration of his term;

(3) cause the printing and distribution of all reports and forms necessary for the proper conduct of business by a district or school in the manner prescribed by the provisions of this title;

(4) provide and keep an official seal of the superintendent of public instruction by which his official acts shall be authenticated;

(5) whenever he deems necessary but not more than once every 4 years, cause the printing of a complete and updated volume of the school laws of the state which shall be offered and sold at cost of the printing and shipping to any school official or other person;

(6) whenever a replacement volume is not printed under the provisions of subsection (5), cause the printing of a cumulative supplement to the most recent volume of school laws immediately after the conclusion of any session of the legislature at which new school laws or amendments to the school laws were adopted. It shall be offered and sold at cost of the printing and shipping to any school official or other person.

~~(7)--submit-a-written-report-to--the--governor--of--his activities--during-the-immediately-preceding-fiscal-biennium in-accordance-with-the-provisions-of-2-7-102;~~

~~(8)~~(7) if deemed necessary, publish a biennial report of the superintendent of public instruction~~,--as-prescribed by-2-7-102~~;

~~(9)~~(8) counsel with and advise county superintendents on matters involving the welfare of the schools and, when requested, give a county superintendent a written answer to any question concerning school law;

~~(10)~~(9) call an annual meeting of the county superintendents when he deems it advisable;

~~(11)~~(10) as far as he shall find it practicable, address public assemblies on subjects pertaining to education in Montana; and

~~(12)~~(11) faithfully work in all practical and possible ways for the welfare of the public schools of the state."

Section 7. Section 20-25-301, MCA, is amended to read:

"20-25-301. Regents' powers and duties. The board of regents of higher education shall serve as regents of the Montana university system, shall use and adopt this style in all its dealings therewith, and shall:

(1) have general control and supervision of the units of the Montana university system, which shall be considered for all purposes one university;

(2) adopt rules, not inconsistent with the constitution and the laws of the state, for its own government which are proper and necessary for the execution

of the powers and duties conferred upon it by law;

(3) provide, subject to the laws of the state, rules for the government of the system;

(4) grant diplomas and degrees to the graduates of the system upon the recommendation of the faculties and have discretion to confer honorary degrees upon persons other than graduates upon the recommendation of the faculty of such institutions;

(5) adopt and use an official seal in the authentication of its acts;

(6) keep a record of its proceedings;

~~(7)--report-as-provided-in-2-7-102;~~

~~(8)~~(7) have, when not otherwise provided by law, control of all books, records, buildings, grounds, and other property of the system;

~~(9)~~(8) receive from the board of land commissioners, other boards, persons, or from the government of the United States all funds, incomes, and other property the system may be entitled to and use and appropriate the property for the specific purpose of the grant or donation;

~~(10)~~(9) have general control of all receipts and disbursements of the system;

~~(11)~~(10) appoint a president and faculty for each of the institutions of the system, appoint any other necessary officers, agents, and employees, and fix their compensation;

~~(12)~~(11) appoint an executive secretary of the system, who shall not be a unit president, fix his term of office and salary, and generally prescribe his duties. The executive secretary is not a member of the board, but he shall serve as the secretary for the regents.

~~(13)~~(12) appoint every 2 years a budget committee composed of four members selected from the appointive members of the regents which shall review the budget requests presented by the units of the system and transmit such requests and its recommendations to the regents;

~~(14)~~(13) confer upon the executive board of each of the units of the system such authority as may be deemed expedient relating to immediate control and management, other than authority relating to financial matters or the selection of the teachers, employees, and faculty;

~~(15)~~(14) confer, at the regents' discretion, upon the president and faculty of each of the units of the system for the best interest of the unit such authority relating to the immediate control and management, other than financial, and the selection of teachers and employees;

~~(16)~~(15) prevent unnecessary duplication of courses at the units of the system;

~~(17)~~(16) investigate the needs of the units by each member of the regents visiting each unit at least once each year;

~~(18)~~(17) appoint a certified professional geologist or registered mining engineer as the director of the Montana state bureau of mines and geology, who shall be designated the state geologist, and appoint any other necessary assistants and employees and fix their compensation. The regents shall prepare a report to each regular session of the legislature showing the progress and condition of the bureau, including any other necessary or required information.

~~(19)~~(18) supervise and control the agricultural experiment station, along with any executive or subordinate board or authority which may be appointed by the governor with the advice and consent of the regents;

~~(20)~~(19) adopt a seal bearing on its face the words "Montana university system", which shall remain in the custody of the executive secretary and which shall be affixed to all diplomas and all other papers, instruments, or documents which may require it."

Section 8. Section 22-1-503, MCA, is amended to read:

"22-1-503. Authority of board. The powers and duties of said board are as follows:

(1) to make rules, not inconsistent with law, for the government of the board and for the government and administration of the state law library, including rules designating when and for what periods of time the library

shall be open to the public and the office hours of the library;

(2) to appoint a librarian and prescribe the duties of such librarian when not otherwise provided for by law;

(3) to sell or exchange duplicate copies of books and pay the moneys arising therefrom into the state law library fund;

(4) to see that the books and other properties of the library are maintained in good order and repair and are protected from theft or injury;

(5) to draw from the state treasury at any time when needed for the legitimate expenses in maintaining and operating the library and acquiring books, reports, journals, and other works and properties therefor, including complete sets of statutory laws and codified laws of the United States of America, of the several states of the union, and of other jurisdictions, any moneys in the fund and available for such purposes;

~~(6)--to report as provided in 2-7-102;~~

~~(7)~~(6) to establish such lawful relations and working arrangements with the library of congress of the United States, with the copyright office therein, and with the superintendent of documents of the United States as may be for the benefit and advantage of the state law library and promote the acquisition of books and other works from such

sources as may be useful to those resorting to the facilities of the state law library."

Section 9. Section 22-2-106, MCA, is amended to read:

"22-2-106. Council duties. The duties of the council shall be to:

(1) encourage throughout the state the study and presentation of the arts and stimulate public interest and participation therein;

(2) cooperate with public and private institutions engaged within the state in artistic and cultural activities, including but not limited to music, theatre, dance, painting, sculpture, architecture, and allied arts and crafts, and make recommendations concerning appropriate methods to encourage participation in and appreciation of the arts to meet the legitimate needs and aspirations of persons in all parts of the state;

(3) foster public interest in the cultural heritage of our state and expand the state's cultural resources;

(4) encourage and assist freedom of artistic expression essential for the well-being of the arts;

~~(5)--report as provided in 2-7-102.~~"

Section 10. Section 37-1-106, MCA, is amended to read:

"37-1-106. Biennial report to governor and legislature. The department, in cooperation with each licensing board, shall prepare a biennial report. ~~In~~

~~addition to the information prescribed by the governor under 2-7-102, the~~ The biennial report of the department shall contain for each board a summary of the board's activities, the board's goals and objectives, a detailed breakdown of board revenues and expenditures, statistics illustrating board activities concerning licensing, summary of complaints received and their disposition, number of licenses revoked or suspended, legislative or court action affecting the board, and any other information the department or board considers relevant."

Section 11. Section 39-51-301, MCA, is amended to read:

"39-51-301. Administration -- duties and powers of department. (1) It shall be the duty of the department to administer this chapter and it shall have power and authority to adopt, amend, or rescind such rules, to employ such persons, make such expenditures, require such reports, make such investigations, and take such other action as it deems necessary or suitable to that end. Such rules shall be effective upon publication in the manner, not inconsistent with the provisions of this chapter, which the department shall prescribe.

(2) The department shall determine its own organization and methods of procedure in accordance with the provisions of this chapter and shall have an official seal

which shall be judicially noticed.

~~(3)--The--department--shall--report--as---provided---in 2-7-102,--such--report--shall-include-a-balance-sheet-of-the money-in-the-fund-in--which--there--shall--be--provided,--if possible,-a-reserve-against-the-liability-in-future-years-to pay--benefits--in--excess-of-the-then-current-contributions, which--reserve--shall--be--set--up--by--the--department---in accordance--with--accepted-actuarial-principles-on-the-basis of-statistics-of-employment,-business--activity,--and--other relevant-factors-for-the-longest-possible-period.~~

~~(4)~~(3) Whenever the department believes that a change in contribution or benefit rates will become necessary to protect the solvency of the fund, it shall promptly so inform the governor and the legislature and make recommendations with respect thereto."

Section 12. Section 39-71-209, MCA, is amended to read:

"39-71-209. Publication of reports and bulletins authorized. The division shall have the power and authority to publish and distribute at its discretion from time to time,~~--in--addition--to-its-report-required-by-2-7-102,~~ such further reports and bulletins covering its operations, proceedings, and matters relative to its work as it may deem advisable."

Section 13. Section 69-14-115, MCA, is amended to

read:

"69-14-115. Investigation, enforcement, and report concerning railroad safety laws. (1) The commission shall:

(a) make inquiry into the observance by all railroads within this state of the laws of the United States and of Montana intended to safeguard the lives of the employees of persons or corporations engaged in operating the same;

(b) lay complaint before the proper state or federal officer, of any infraction of any of such laws; and

(c) prosecute before the proper court or tribunal any person guilty of violation of the penal provisions thereof.

(2) The commission shall in ~~the~~ an annual report ~~required-by-2-7-102~~ set out what effort it has made to carry out the provisions of this section, with the result thereof, and in detail what steps it has taken to prosecute any violations of any such acts of which it has secured information. A copy of this annual report shall be mailed to the secretary of the department of transportation."

NEW SECTION. Section 14. Repealer. Section 2-7-102, MCA, is repealed.

-End-

DEPARTMENTS; AMENDING SECTION....

INTRODUCED: 01/18/83
REFERRED TO COMMITTEE ON LOCAL GOVERNMENT: 01/18/83
HEARING: 1/27/83
REPORT: 01/27/83, DO PASS
2ND READING: 01/31/83, DO PASS AYES: 86; NAYS: 4
3RD READING: 02/02/83, DO PASS AYES: 97; NAYS: 2

TRANSMITTED TO SENATE: 2/2/83
REFERRED TO COMMITTEE ON LOCAL GOVERNMENT: 02/03/83
HEARING: 3/17/83
REPORT: 3/23/83, BE CONCURRED IN, AS AMENDED
2ND READING: 03/24/83 AYES: 49; NAYS: 0
3RD READING: 03/28/83 AYES: 45; NAYS: 2

RETURNED TO HOUSE WITH AMENDMENTS: 3/28/83
2ND READING: 04/04/83, BE CONCURRED IN AYES: 72; NAYS: 6
3RD READING: 04/05/83, BE CONCURRED IN AYES: 94; NAYS: 3

TRANSMITTED TO GOVERNOR: 04/13/83
SIGNED: 04/18/83, CHAPTER 546

HB 344 -- SPAETH, CONOVER -- TO PROVIDE THAT A COUNTY THAT PLACES A PERSON RECEIVING GENERAL ASSISTANCE IN A NURSING HOME IN ANOTHER COUNTY RETAINS FINANCIAL RESPONSIBILITY FOR THE PERSON; AMENDING SECTION ....

INTRODUCED: 01/18/83
REFERRED TO COMMITTEE ON LOCAL GOVERNMENT: 01/18/83
HEARING: 2/1/83
REPORT: 02/01/83, DO NOT PASS
BILL KILLED: 02/02/83

HB 345 -- SPAETH -- PROVIDING FOR THE SALE OR DONATION OF ANIMAL MEAT OR PARTS CONFISCATED OR OTHERWISE ACQUIRED BY THE DEPARTMENT OF FISH, WILDLIFE, AND PARKS; ESTABLISHING A REWARD PROGRAM WITH THE PROCEEDS FOR REPORTING VIOLATIONS OF THE LAWS ADMINISTERED BY THE DEPARTMENT; AMENDING SECTIONS ....
BY REQUEST OF: THE DEPARTMENT OF FISH, WILDLIFE, AND PARKS

INTRODUCED: 01/18/83
REFERRED TO COMMITTEE ON FISH & GAME: 01/18/83
HEARING: 1/27/83
REPORT: 02/04/83, DO PASS, AS AMENDED
2ND READING: 02/08/83, DO PASS, AS AMENDED AYES: 65; NAYS: 28
3RD READING: 02/11/83, DO PASS AYES: 76; NAYS: 23

TRANSMITTED TO SENATE: 2/11/83
REFERRED TO COMMITTEE ON FISH & GAME: 02/12/83
HEARING: 3/5/83
REPORT: 3/23/83, BE NOT CONCURRED IN
BILL KILLED: 3/23/83

HB 346 -- KEENAN, METCALF, DOZIER -- TO DELETE THE REQUIREMENT THAT STATE AGENCIES AND THE GOVERNOR SUBMIT CERTAIN REPORTS; AMENDING SECTIONS ....; AND REPEALING SECTION....
BY REQUEST OF: THE OFFICE OF BUDGET AND PROGRAM PLANNING

INTRODUCED: 01/18/83

REFERRED TO COMMITTEE ON STATE ADMINISTRATION: 01/18/83
HEARING: 1/27/83
REPORT: 01/28/83, DO PASS
2ND READING: 02/01/83, DO PASS AYES: 96; NAYS: 1
3RD READING: 02/03/83, DO PASS AYES: 95; NAYS: 0

TRANSMITTED TO SENATE: 2/3/83
REFERRED TO COMMITTEE ON STATE ADMINISTRATION: 02/04/83
HEARING: 3/2/83
REPORT: 3/2/83, BE CONCURRED IN
2ND READING: 03/05/83 AYES: 49; NAYS: 0
3RD READING: 03/08/83 AYES: 48; NAYS: 0

RETURNED TO HOUSE: 3/8/83

TRANSMITTED TO GOVERNOR: 03/15/83
SIGNED: 03/17/83, CHAPTER 125

HB 347 -- DONALDSON -- REVISING THE SMALL TRACT FINANCING ACT OF MONTANA BY INCREASING THE LIMIT ON TRUSTEES' AND ATTORNEYS' FEES AND DELETING UNNECESSARY RECORDING LANGUAGE; AMENDING SECTIONS ....

INTRODUCED: 01/19/83
REFERRED TO COMMITTEE ON JUDICIARY: 01/19/83
HEARING: 1/24/83
REPORT: 01/24/83, DO PASS, AS AMENDED
2ND READING: 01/26/83, DO PASS AYES: 63; NAYS: 32
3RD READING: 01/28/83, DO PASS AYES: 66; NAYS: 26

TRANSMITTED TO SENATE: 1/28/83
REFERRED TO COMMITTEE ON BUSINESS & INDUSTRY: 01/29/83
HEARING: 2/4/83
REPORT: 02/07/83, BE CONCURRED IN, AS AMENDED
ON MOTION, 2/7/83, THAT THE BILL BE TAKEN FROM 2ND READING AND REREFERRED TO THE COMMITTEE ON BUSINESS & INDUSTRY. MOTION PASSED UNANIMOUSLY.
REPORT: 02/09/83, BE CONCURRED IN, AS AMENDED
2ND READING: 02/12/83 AYES: 48; NAYS: 0
3RD READING: 02/15/83 AYES: 49; NAYS: 0

RETURNED TO HOUSE WITH AMENDMENTS: 2/15/83
2ND READING: 03/01/83, BE CONCURRED IN AYES: 90; NAYS: 2
3RD READING: 03/02/83, BE CONCURRED IN AYES: 90; NAYS: 4

TRANSMITTED TO GOVERNOR: 3/7/83
SIGNED: 3/10/83, CHAPTER 55

HB 348 -- HOWE, VINCENT -- TO PROVIDE FOR THE NONPARTISAN ELECTION OF COUNTY SUPERINTENDENTS OF SCHOOLS AND COUNTY CLERKS; AMENDING SECTION ....

INTRODUCED: 01/19/83
REFERRED TO COMMITTEE ON LOCAL GOVERNMENT: 01/19/83
HEARING: 2/3/83
REPORT: 02/03/83, DO NOT PASS
BILL KILLED: 02/05/83

HB 349 -- SPAETH, CONOVER, ASAY, ET AL. -- TO GENERALLY REVISE AND CLARIFY THE CONSERVATION DISTRICT LAWS; TO ESTABLISH A CONSERVATION PRACTICE LOAN PROGRAM; ... AND

MINUTES OF THE MEETING OF THE HOUSE STATE ADMINISTRATION COMMITTEE
January 27, 1983

CHAIRMAN JOE BRAND called the meeting to order at 8 a.m. in Room 129 of the Capitol. All members were present.

HOUSE BILL 296

REPRESENTATIVE HAL HARPER, sponsor of House Bill 296, said the measure would allocate the Board of Veterans Affairs to the Department of Military Affairs. He said at present the Board is under the Department of Social and Rehabilitative Services for administrative purposes. Representative Harper said he did not know why the Board is with SRS. He said the Board is due for sunset review in 1987. He said the agencies wish to make sure that like agencies were together, and it would make sense to have the Board of Veterans Affairs within the Department of Military Affairs.

PROPONENTS

MAJOR GENERAL JAMES DUFFY indicated his support for the measure. He said the Department of Military Affairs can provide better service for the Board.

JUDITH CARLSON, deputy director of SRS, spoke for the measure. She said the function of the Board properly lays within the Department of Military Affairs.

TONY CUMMINGS, state adjutant of the American Legion, spoke in support of the bill, as did BILL WILSON and BOB DURKEE, representing the VFW. Durkee gave a brief history of the Board.

MICHAEL WOLF, administrator of the Veterans Affairs Division, spoke of the good relationship the Board enjoys with SRS. He said veterans would be better served if the Department of Military Affairs contained the Board and there would be cost savings as well.

THERE BEING NO FURTHER STATEMENTS BY PROPONENTS, AND NO OPPONENTS OF HOUSE BILL 296, REPRESENTATIVE HARPER CLOSED AND CHAIRMAN BRAND OPENED THE HEARING TO QUESTIONS BY COMMITTEE MEMBERS.

COMMITTEE QUESTIONS

REPRESENTATIVE CHET SOLBERG asked what kind of cost savings would happen. Wolf said in excess of $20,000 a year.

REPRESENTATIVE WALTER SALES asked what the Board of Veterans Affairs did. Wolf said the Board serves veterans and assists with the application process for the various assistance programs. He said it also helps veterans gain admittance to VA hospitals.

THERE BEING NO FURTHER QUESTIONS FROM COMMITTEE MEMBERS, CHAIRMAN BRAND CLOSED THE HEARING ON HOUSE BILL 296.

HOUSE BILL 346

Chairman Brand relinquished the chair to Vice Chairman Helen O'Connell so he could carry House Bill 346 before the Committee. Representative Brand said that REPRESENTATIVE NANCY KEENAN, sponsor of House Bill 346, had other commitments and he would take care of the bill for the Committee today. Representative Brand said that House Bill 346 would free various agencies from report requirements. He said at present there is a duplication of reports by the Governor's staff. He said a money savings would be accomplished by the bill because information is already being duplicated.

PROPONENTS

DAVE LEWIS, director of the Office of Budget and Program Planning, spoke in support of the bill. He said there was no interest in the reports generated, and of the 150 legislators polled about the usefulness of the report, the ten who responded said the reports should be dropped. Lewis estimated a savings of $3,500 a year.

THERE BEING NO FURTHER TESTIMONY BY PROPONENTS OF THE MEASURE AND NO OPPONENTS TO HOUSE BILL 346, AND NO CLOSING BY REPRESENTATIVE BRAND, AND NO QUESTIONS BY COMMITTEE MEMBERS, VICE CHAIRMAN O'CONNELL CLOSED THE HEARING ON HOUSE BILL 346.

HOUSE BILL 304

REPRESENTATIVE GLENN MUELLER, sponsor of House Bill 304, said the bill was requested by the Public Employees Retirement Board. Representative Mueller said the requested exclusion works to the advantage of students who may also be working for the state. He said as students, they would prefer to get all the money they can possibly earn and not put any away for retirement. He said the proper function of employment for students is to further their education, not a vocational process. He said that college students do not wish to participate.

PROPONENTS

LAWRENCE NACHTSHEIM, administrator of the Public Employees Retirement Division, issued a written statement for the Committee. (attached.)

THERE BEING NO FURTHER STATEMENTS BY PROPONENTS AND NO OPPONENTS TO HOUSE BILL 304, AND NO CLOSING STATEMENT BY REPRESENTATIVE MUELLER, CHAIRMAN BRAND OPENED THE HEARING TO QUESTIONS BY COMMITTEE MEMBERS.

REPRESENTATIVE KATHLEEN McBRIDE asked about part-time students. Nachtsheim said it was possible for a full-time employee to have two part-time jobs, and therefore, be eligible for PERS. But he said there are other protections in the statute.

REPRESENTATIVE JERRY DRISCOLL asked if all students must become members of the PERS unless excluded by the bill. Nachtsheim said yes, but elected public officials can opt in or out of the system.

Chairman Brand asked about any cost savings by the bill. Nachtsheim said he did not believe there would be any cost savings. He said it was an isolated loophole that the division wanted to clean up.

Representative Sales said the law now says that all students are excluded, but is it true that some are now covered? Nachtsheim said that reality was the other way around. He said it was a matter of interpretation and the division sought clarifying language. He said the term full-time would define the students the bill is talking about. He said the bill is aimed at avoiding potential problems.

Representative Driscoll asked if part-time students had to join PERS. Nachtsheim said they did not.

THERE BEING NO FURTHER QUESTIONS FROM COMMITTEE MEMBERS, CHAIRMAN BRAND CLOSED THE HEARING ON HOUSE BILL 304.

HOUSE BILL 311

REPRESENTATIVE RAY PECK, sponsor of House Bill 311, said the bill was requested by the Teacher's Retirement Board. He said it was a means of reducing the unfunded liability of the Teacher's Retirement Fund. He said the general stability and quality of the fund is measured against its liabilities. He said the liabilities are increasing on an actuarial basis as court rulings are adverse and the unfunded liability increases. As a result, the amortization period was increased. He said the bill would reduce the amortization period from 48.5 years to 40 years by increasing by 0.72 percent the employers' contribution to the system.

PROPONENTS

BOB JOHNSON, administrator of the Teachers Retirement System, said the system is moving away from a 40-year employment period and that indicates a weakening of the system. He said employees have made an 11 percent increase in their contributions to the system and now it is time to take action.

TERRY MINNOW, representing the Montana Federation of Teachers, AFL-CIO, indicated the group's support of the measure.

DAVE SEXTON, representing the Montana Education Association, endorsed the measure.

In closing, Representative Peck apologized for not being better prepared for the committee hearing today. He said he received notice of the committee hearing, and accepts the blame.

COMMITTEE QUESTIONS

Representative McBride asked how school districts would finance the increased contributions. Johnson said the school districts could increase the mill levy if needed. He said counties can include retirement increases in the mill levies.

REPRESENTATIVE FRANCIS BARDANOUVE asked "what's your responsibility? He said the administrators had let the system get in "this shape." Johnson said the condition of the fund was due largely to adverse court decisions and the economic situation. He said the return has not kept up with the inflation rate.

Johnson introduced ELTON HENDRICKSON, a consulting actuary for the Teachers Retirement System. He said the amount requested in increasing contributions by employers, 0.72 percent is attributable to the court decisions that were adverse. He said six-tenths of 1 percent of the requested increase is attributable to other factors. He said that in consulting with the Teachers Retirement System he had been using actuary assumptions that did not prove out to be as high as reality. He said extra earnings on investments were not as beneficial as the cost of living was detrimental. In the long run, he said, planners want investment earnings to be 1.5 percent higher than the cost of living. He said, however, this Teachers Retirement System is solid.

Representative Bardanouve asked why the bottom line was always a minus sign. He said in 26 years he would expect the law of averages to catch up.

Chairman Brand said a problem with the system is the method of computing retirement benefits by considering the three highest consecutive years of salaries and prerequisites. He asked the consultant about that. Hendrickson said that was a problem with the system and the problem has grown. He said the matter has been brought before the board. Hendrickson said he never supported any benefits to be paid from any retirement system without it being paid for.

Representative Driscoll asked the average salary for members of the Teachers Retirement System. Johnson said it amounted to $20,480 a year for male employees, and $15,723 for female employees. Representative Driscoll asked the average benefit. Johnson said it was $428 a month for male employees.

Representative Sales asked what positive actions the Legislature could take to help the system apart from this bill. Hendrickson suggested several things: he said that death benefits are inequitably high, but that problem has been changed. He said that "little things" can be done. He said in 1972 members received interest on their contributions. Representative Sales asked where the statutory problem was. Johnson said court cases have said that member's benefits could not be reduced.

REPRESENTATIVE CLYDE SMITH talked about an 8.5 percent shortfall in 12 years as "not minor." He asked "what's to prevent this happening in another 12 years?" Johnson said there have been two benefit increases. Representative Smith said what about the three-year computation formula for pension benefits. Johnson said that began in 1971.

Responding to a question by Representative Mueller, Johnson said the additional cost to allow retirement at 25 years of service would be 0.994 percent.

REPRESENTATIVE PISTORIA asked if the employer would pay the entire rate. Johnson said that by 1984 the legislation would bring in $2,364,000 in additional revenue. Johnson said that "we can't have teachers pay for it according to court cases."

REPRESENTATIVE HAMMOND said he was concerned about mill levies on poor counties. He said that in Mineral County, where he comes from, the county already levies 150 mills to maintain the retirement system. He asked "how can I go home and tell people they're going to have to pay higher benefits just to keep my retirement where it is?"

Representative Peck noted that the county levy also applies to the PERS contributions for the county.

REPRESENTATIVE PHILLIPS asked what the employer contribution is. Johnson said it amounted to 6.187 percent of salary. For the PERS, he said, it was about 6 percent even.

Chairman Brand asked how many teachers contribute to this system. Johnson said 14,000, with 5,106 getting benefits.

Chairman Brand asked what would happen if the bill fails. He asked how much would be needed two years later. Hendrickson said the costs would stay the same. He said the employer assessment was 6.43 percent in October 1981, but was increased to provide for the Vietnam buy-back provision later on.

THERE BEING NO FURTHER QUESTIONS FROM COMMITTEE MEMBERS, CHAIRMAN BRAND CLOSED THE HEARING ON HOUSE BILL 311.

HOUSE BILL 329

Chairman Brand postponed the hearing on House Bill 329, noting that REPRESENTATIVE JOHN SHONTZ was not available to testify, and could not be found, after extensive search.

EXECUTIVE SESSION

HOUSE BILL 296

REPRESENTATIVE PHILLIPS MOVED House Bill 296 DO PASS, REPRESENTATIVE HAMMOND SECONDED.

REPRESENATIVE SALES MOVED a SUBSTITUTE MOTION House Bill 296 DO NOT PASS, REPRESENTATIVE MUELLER SECONDED.

Representative Sales noted that the board was in the correct department now, SRS. He said "we ought to consider closing all these little stations."

Representative Driscoll said part of the savings would result from the plan to put the offices within the National Guard Armories.

Representative Phillips said mixing Veterans Affairs and SRS is equal to mixing apples and oranges.

Representative Solberg said the transfer would save $2,000 in rental fees for SRS.

Chairman Brand noted that the savings would be able to be used for other things such as field service.

REPRESENTATIVE HAND said the federal government provides extensive veterans programs. He suggested the state should get out of veterans' servicing.

The question being called, the SUBSTITUTE MOTION by REPRESENTATIVE SALES FAILED by voice vote with only two affirmative votes. The two votes in favor were representatives Sales and Hand.

The question being called on the ORIGINAL MOTION by REPRESENTATIVE PHILLIPS, the motion CARRIED on voice vote. Representatives Sales and Hand voting "NO."

HOUSE BILL 304

REPRESENTATIVE MUELLER MOVED House Bill 304 DO PASS, REPRESENTATIVE SALES SECONDED.

Chairman Brand noted the bill would cost no money.

The question being called, the MUELLER MOTION CARRIED by unanimous voice vote. House Bill 304 was reported out DO PASS.

HOUSE BILL 311

REPRESENTATIVE BLISS MOVED House Bill 311 DO NOT PASS, REPRESENTATIVE SMITH SECONDED.

Representative Bliss said this was not going to get any worse in the next two years. Representative Driscoll said he did not understand why these funds were in such bad shape. Representative Mueller noted that every session "we tack goodies on these systems."

Chairman Brand said the bill would increase taxes for local tax payers.

Representative Sales proposed that teachers pay a $175 annual license fee and the revenue be put into the retirement system.

Representative Driscoll said the problems with the system are not attributable to teachers, but are due to highly paid administrators.

Chairman Brand said the problem with the system is that people are trying to take care of increases without addressing the liabilities those increases bring.

The question being called, the BLISS MOTION CARRIED by voice vote. Voting "NO" were Representatives Driscoll, McCormick, and O'Connell.

HOUSE BILL 346

REPRESENTATIVE O'CONNELL MOVED House Bill 346 DO PASS, REPRESENATIVE HAMMOND SECONDED. The question being called, the O'CONNELL MOTION CARRIED by unanimous voice vote.

HOUSE BILL 268

Representative McBride, who constitutes the subcommittee of one on House Bill 268, said she would hear the matter tomorrow.

HOUSE BILL 329

REPRESENTATIVE O'CONNELL MOVED House Bill 329 be considered tomorrow, REPRESENTATIVE BARDANOUVE SECONDED.

HOUSE BILL 79

Representative McBride noted her committee was still working on House Bill 79.

HOUSE BILL 23

Representative McCormick said his subcommittee was still working on House Bill 23 and was awaiting new figures and expected to report sometime next week.

HOUSE BILL 151

REPRESENTATIVE MUELLER MOVED House Bill 151 DO PASS, REPRESENTATIVE DRISCOLL SECONDED. The question being called, the MUELLER MOTION CARRIED by unanimous voice vote.

HOUSE BILL 222

REPRESENTATIVE O'CONNELL MOVED House Bill 222 DO PASS AS AMENDED.

REPRESENTATIVE MUELLER MOVED the AMENDMENTS to House Bill 222, REPRESENTATIVE COMPTON SECONDED. The question being called, the MUELLER MOTION CARRIED by unanimous voice vote. House Bill 222 was amended.

The original question being called, the O'CONNELL MOTION CARRIED by voice vote. Representative Solberg voted "NO."

HOUSE BILL 259

REPRESENTATIVE DRISCOLL MOVED to RECONSIDER committee action on House Bill 259, REPRESENTATIVE HAMMOND SECONDED. The question being called, the DRISCOLL MOTION CARRIED by voice vote. Voting "NO" were Representatives Sales, Bliss, and Bardanouve.

REPRESENTATIVE DRISCOLL MOVED House Bill 259 DO PASS in its original form, the first-reading copy. REPRESENTATIVE McBRIDE SECONDED.

REPRESENTATIVE DRISCOLL MOVED to remove the AMENDMENT from House Bill 259.

Representative Sales said that legislators should be treated as other citizens, and pay their own way.

Representative O'Connell said removal of the amendment would gut the bill.

Representative Mueller said he disagreed with Representative O'Connell.

Representative Hammond said the issue was one of trust in elected officials.

Representative McBride noted that "we're all elected to represent our constituents."

The question being called, the DRISCOLL MOTION CARRIED on a 12-6 roll-call vote.

REPRESENTATIVE HAMMOND MOVED House Bill 259 DO PASS, REPRESENTATIVE DRISCOLL SECONDED. The question being called, Chairman Brand secured the consent of the Committee to reverse the earlier roll-call vote and have the MOTION CARRYING by an affirmative 12 votes.

House Bill 259 was reported out in its original, first reading version.

REPRESENTATIVE HAND MOVED adjournment, REPRESENTATIVE SMITH SECONDED.

The meeting was declared adjourned at 10:34 a.m.

Joe Brand

REPRESENTATIVE JOE BRAND, Chairman

STANDING COMMITTEE REPORT

JANUARY 27, 19 83

MR. SPEAKER:

We, your committee on STATE ADMINISTRATION

having had under consideration HOUSE Bill No. 296

first reading copy (white)
Color

A BILL FOR AN ACT ENTITLED: "AN ACT RO TRANSFER THE BOARD OF VETERANS' AEFAIRS FROM THE DEPARTMENT OF SOCIAL AND REHABILITATION SERVICES TO THE DEPARTMENT OF MILITARY AFFAIRS; RENUMBERING SECTION 2-15-2202, MCA; AMENDING SECTIONS 2-8-103 AND 10-2-101, MCA."

Respectfully report as follows: That HOUSE Bill No. 296

DO PASS

REP. JOE BRAND
Chairman.

STATE PUB. CO.
Helena, Mont.

STANDING COMMITTEE REPORT

JANUARY 27, 19 83

MR. SPEAKER:

We, your committee on STATE ADMINISTRATION

having had under consideration HOUSE Bill No. 304

first reading copy (white color)

A BILL FOR AN ACT ENTITLED: "AN ACT CLARIFYING STUDENT EXCLUSION FROM MEMBERSHIP IN THE PUBLIC EMPLOYEES' RETIREMENT SYSTEM; AMENDING SECTION 19-3-403, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

Respectfully report as follows: That HOUSE Bill No. 304

DO PASS

REP. JOE BRAND
Chairman.

STATE PUB. CO.
Helena, Mont.

STANDING COMMITTEE REPORT

JANUARY 27, 19 83

MR. SPEAKER:

We, your committee on STATE ADMINISTRATION

having had under consideration HOUSE Bill No. 311

first reading copy (white color)

A BILL FOR AN ACT ENTITLED: "AN ACT INCREASING THE EMPLOYER'S CONTTRIBUTION TO THE PENSION ACCUMULATION FUND OF THE TEACHERS' RETIREMENT SYSTEM TO REDUCE THE AMORTISATION PERIOD OF THE ACTUARIAL ACCRUED UNFUNDED LIABILITY OF THE SYSTEM FROM 49.5 YEARS TO 40 YEARS; AMENDING SECTION 19-4-605, MCA; AND PROVIDING AN EFFECTIVE DATE."

Respectfully report as follows: That HOUSE Bill No. 311

DO ~~PASS~~ NOT PASS

REP. JOE BRAND

Chairman.

STATE PUB. CO.
Helena, Mont.

STANDING COMMITTEE REPORT

JANUARY 27, 19 83

MR. SPEAKER:

We, your committee on STATE ADMINISTRATION

having had under consideration HOUSE Bill No. 346

first reading copy (white color)

A BILL FOR AN ACT ENTITLED: "AN ACT TO DELETE THE REQUIREMENT THAT STATE AGENCIES AND THE GOVERNOR SUBMIT CERTAIN REPORTS; AMENDING SECTIONS 1-12-104, 2-7-103, 2-15-201, 2-15-401, 2-15-50, 20-3-105, 20-25-301, 22-1-503, 22-2-106, 37-1-106, 39-51-301, 39-71-209, AND 69-14-115, MCA; AND REPEALING SECTION 277-102, MCA."

Respectfully report as follows: That HOUSE Bill No. 346

DO PASS

REP. JOE BRAND
Chairman.

STATE PUB. CO.
Helena, Mont.

STANDING COMMITTEE REPORT

JANUARY 27, 19 83

MR. SPEAKER

We, your committee on STATE ADMINISTRATION

having had under consideration HOUSE Bill No. 151

first reading copy (white color)

"AN ACT TO SUBMIT TO THE QUALIFIED ELECTORS OF MONTANA AN AMENDMENT TO ARTICLE V, SECTION 14, OF THE MONTANA CONSTITUTION TO PROVIDE THAT THE CONGRESSIONAL DISTRICTS IN MONTANA BE REDISTRICTED WITHIN 90 DAYS AFTER THE OFFICIAL FINAL DECENNIAL CENSUS FIGURES ARE AVAILABLE; AND PROVIDING AN EFFECTIVE DATE."

Respectfully report as follows: That HOUSE Bill No. 151

DO PASS

REP. JOE BRAND, Chairman.

STATE PUB. CO.
Helena, Mont.

STANDING COMMITTEE REPORT

JANUARY 27, 19 83

MR. SPEAKER

We, your committee on STATE ADMINISTRATION

having had under consideration HOUSE Bill No. 222

first reading copy (white Color)

"AN ACT AMENDING SECTIONS 5-1-101, 5-1-106, AND 5-1-108 THROUGH 5-1-111, MCA, TO PROVIDE STATUTORY CONFORMITY TO THE CONSTITUTIONAL AMENDMENT TO ACCELERATE MONTANA'S CONGRESSIONAL REDISTRICTING PROCESS; AND PROVIDING A CONTINGENT EFFECTIVE DATE."

Respectfully report as follows: That HOUSE Bill No. 222

be amended as follows:

1. Page 3, line 12.
Strike: "___"
Insert: "House"

2. Page 3, line 13.
Strike: "___ [LC 311]"
Insert: "151"

3. Page 3, line 17.
Following: " pass"
Strike: "___"
Insert: "House"
Following: "No."
Strike: "___ [LC 311]"
Insert: "151"

AND AS AMENDED

DO PASS

REP. JOE BRAND, Chairman.

STATE PUB. CO.
Helena, Mont.

VISITOR'S REGISTER

HOUSE _____ COMMITTEE _____

BILL HR 296 DATE _____

SPONSOR _____

NAME	RESIDENCE	REPRESENTING	SUP-PORT	OP-POSE
Gary Scott	Box 92 S.R Clancy	National Guard Enlisted Assoc	✓	
MG. Jim Duffey	Clancy, MT	Dept of Military Affairs	✓	
H. E. Cotter II	Helena MT	" "	✓	
Michael V. Wolt	Helena, MT	Veterans Affairs Div	✓	
Gary Cummins	Helena	American Legion of MT	✓	
Bill Nelson	Helena	Veterans Foreign Wars	✓	
Judith H Carlson	Helena	SRS	✓	

IF YOU CARE TO WRITE COMMENTS, ASK SECRETARY FOR LONGER FORM.

WHEN TESTIFYING PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

FORM CS-33
1-83

HOUSE BILL 304 - STUDENT EXCLUSION - Mueller

This bill is proposed by the Public Employees' Retirement Board, to clarify the student exclusion from membership in the Public Employees' Retirement System and in almost every instant, works to the advantage of the students. This bill is proposed simply to clarify the exclusion provision for full-time students who are employed by a public school, or high school, vocational technical center, community college or any unit of the state university system.

These individuals are excluded under the premise that they are primarily in school as a learning rather than a vocational process. Most students, particularly at the elementary and high school levels, are employed by their school as part of the learning process rather than as career employees.

College students employed by their respective institutions are normally working to supplement their income and do not wish to participate in a retirement program with the accompanying reduction in income. THEY NEED THE MONEY WHILE THEY ARE IN SCHOOL.

For those individuals who after college become public employees, there is a provision to buy back their college worktime. This provision permits university students to participate in the PERS when it is more economically feasible rather than the time they are in school.

This provision limits the exclusion to students who are employed by the school which they are attending. This school establishes the criteria for full-time students and without this limitation, this section would be almost impossible to administer.

NOTE: Students may be subject to other provisions of this section, such as: 120 working days in a fiscal year - provision found in subparagraph 5, employment by the legislature found in paragraph 12, or the CETA provisions found in paragraph 14. All exclusions for any employee may be applied to a student the same as any other public employee.

Larry Nachtheim
Administrator PERD
Proponent

WITNESS STATEMENT

Name Terry Lynn Minow

Committee On St. Admin

Address Box 513 Boulder MT

Date 1/27/83

Representing Mt Ed of Teachers

Support ✓

Bill No. HB 311

Oppose

Amend

AFTER TESTIFYING, PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

1.

2.

3.

4.

Itemize the main argument or points of your testimony. This will assist the committee secretary with her minutes.

FORM CS-34
1-83

WITNESS STATEMENT

Name David Sexton

Address Helena

Representing MEA

Bill No. HB 311

Committee On State Ad

Date 1-27-83

Support ✓

Oppose

Amend

AFTER TESTIFYING, PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

1.

2.

3.

4.

Itemize the main argument or points of your testimony. This will assist the committee secretary with her minutes.

FORM CS-34
1-83

MINUTES OF THE MEETING
STATE ADMINISTRATION COMMITTEE
MONTANA STATE SENATE

March 2, 1983

The thirty-eighth meeting of the Senate State Administration Committee was called to order by Senator Pete Story, Chairman on March 2, 1983 at 10:00 a.m. in room 331 of the State Capitol Building in Helena, Montana.

ROLL CALL: Senator Tveit and Senator Stimatz were absent.

The meeting was called to order to hear H.B.167, H.B.173, H.B.346, H.B.487, H.B.557, H.B.107 and H.B.259.

CONSIDERATION OF HOUSE BILL 487:
"AN ACT CLARIFYING THE PAYMENT OF DEATH BENEFITS UNDER THE MUNICIPAL POLICE OFFICERS' AND THE MONTANA FIREFIGHTERS' UNIFIED RETIREMENT ACTS; DEFINING SURVIVING SPOUSE AND DEPENDNET CHILD; AMENDING ...."

REPRESENTATIVE O'CONNELL, District 34, introduced this bill and stated that it is presented so the police and firefighters can name their beneficiaries.

PROPONENTS:

LARRY NACHTSHEIM, Department of Administration, presented EXHIBIT 1 as an explanation to this bill and as a statement of his testimony.

Senator Story asked if it were Mr. Nachtsheim's feeling that this would be a savings rather than an increase to the system.

Mr. Nachtsheim said that it was.

MIKE WALKER, representing the Montana State Council of Firefighters spoke as a proponent saying that the change they were concerned with was the change of minor children to dependent children, thus this clause would apply to education beyond that child considered a minor.

OPPONENTS: None

QUESTIONS OF THE COMMITTEE:

SENATOR MARBUT asked if these changes fit in with the provisions in other areas.

MR. NACHTSHEIM said that he did feel they should get into civil areas.

ACTION ON HOUSE BILL 487:
SENATOR MANNING MOVED THAT H.B.487 BE CONCURRED IN.
MOTION PASSED. Senator Manning will carry this bill.

CONSIDERATION OF HOUSE BILL 107:
"AN ACT AMENDING SECTIONS 13-27-406 AND 13-27-407, MCA, TO REVISE THE DEADLINES FOR FILING BALLOT ISSUE ARGUMENTS AND REBUTTAL ARGUMENTS; AND TO CLARIFY THE RESULT OF NOT MEETING THE DEADLINE."

REPRESENTATIVE WALTER SALES, District 79, introduced H.B.107 and said that this deals with the ballot issues and sets a time the arguments and rebuttals must be presented to the Secretary of State's office.

PROPONENTS:

BILL CHRISTIAN representing the Secretary of State's office said that this bill tightens up the law and gives them the reason to refuse.

OPPONENTS: None

QUESTIONS OF THE COMMITTEE: None

ACTION ON H.B.107:
SENATOR MANNING MOVED THAT H.B. 107 BE CONCURRED IN.
MOTION PASSED. Senator Marbut will carry the bill to the floor.

CONSIDERATION OF HOUSE BILL 167:
"AN ACT TO AMEND AND GENERALLY REVISE THE LAWS RELATING TO THE FILING OF DUPLICATE ORIGINALS OF DOCUMENTS WITH THE SECRETARY OF STATE; AMENDING SECTIONS ..."

REPRESENTATIVE SANDS, District 68, stated that this bill was requested by the Secretary of State. This bill demands duplicate filing, one original and one copy of application for registration of an assumed business name shall be executed and delivered to the secretary of state. If a corporation wants to change it's registration office or agency now it must be signed by the president or vice-president of the corporation.

PROPONENTS:

~~BILL~~ CLIFF CHRISTIAN of the Secretary of State's office said that this bill will reduce alot of red tape in the office.

OPPONENTS: None

QUESTIONS OF THE COMMITTEE:

SENATOR MANNING asked if this would cut costs.

MR. CHRISTIAN said it would.

The hearing closed on H.B.167.

ACTION ON HOUSE BILL 167:
SENATOR MANNING MOVED THAT H.B.167 BE CONCURRED IN. MOTION PASSED. Senator Story will carry this bill to the floor.

CONSIDERATION OF HOUSE BILL 557:
"AN ACT TO AMEND AND GENERALLY REVISE THE LAWS RELATING TO THE REQUIREMENTS FOR EXECUTING CERTAIN DOCUMENTS FILED WITH THE SECRETARY OF STATE; PROVIDING PENALTIES FOR MAKING FALSE STATEMENTS; AMENDING SECTIONS...."

REPRESENTATIVE SANDS, District 68 introduced this bill and stated that notorization and verification was always the rule and many people did not realize this so instead of requirements of notorizing and verifying, there could be printed on the document that the person swears the information is true to the best of their knowledge. If the person signs this knowing that the information is false he is subject to perjury.

PROPONENTS:

ALAN ROBERTSON of the Secretary of State's office testified in favor of this bill and said that it is done in other states. He said that they have been taking about 2000 documents a year that must be rejected. This law is already in place in the statutes. Mr. Robertson presented copies of documents EXHIBITS 2 and 3. EXHIBITS 4 and 5 are varification statements.

BOB MURDO, representing the Business Law Section of the State Bar of Montana testified in favor of H.B.557 and expressed what the amendments in the bill are doing. It was his suggestion that Section 29 be deleted. EXHIBIT 6 is Mr. Murdo's testimony.

SENATOR MARBUT questioned him about the language on page 41 removing non-profit organization and what is non-profit.

BOB MURDO said you have to be non-profit under the non-profit laws.

ALAN ROBERTSON stated that they do concur in Section 29 being removed from the bill.

The record will note written testimony EXHIBIT 7, from Ward Shanahan to the Secretary of State.

QUESTIONS OF THE COMMITTEE: (H.B.557)

SENATOR TOWE asked what the penalty is for perjury.

REPRESENTATIVE SANDS said it was $50,000 or 10 years in jail.

SENATOR TOWE commented that that was quite a change.

MR. MURDO stated that he is not sure that it is that much of a change.

SENATOR TOWE stated that the penalty for signing a false document now is a misdemeanor.

MR. ROBERTSON stated that that does not apply here. He said that he believes "swearing" in the statutes is $500 or six months but that attorneys differ on this.

Mr. Robertson said that section 29 shows consistency but the churches objected so they took it out.

REPRESENTATIVE SANDS stated the problem with Section 29 was just pointed out to him but that he has no problem with it either way.

The hearing closed on House Bill 557.

CONSIDERATION OF HOUSE BILL 346:
"AN ACT TO DELETE THE REQUIREMENT THAT STATE AGENCIES AND THE GOVERNOR SUBMIT CERTAIN REPORTS; AMENDING SECTIONS ..."

REPRESENTATIVE NANCY KEENAN, District 89, introduced H.B.346 and said that this bill deletes the commissioner's report and the governor's report. She reviewed the sections and their changes and said that this will be a savings of about $31,000.

PROPONENT:

DAVE LEWIS with Budget, Program and Planning testified that this goes way back and with the legislative staff now it is not necessary. He said no one he knows put out the reports.

OPPONENTS: None

QUESTIONS OF THE COMMITTEE:

SENATOR TOWE said that he receives the reports and looks them over but did agree the reports are not necessary and there is the information in the budget books but ask that they be a little more complete now.

The hearing closed on H.B.346.

ACTION ON HOUSE BILL 346:
SENATOR TOWE MOVED THAT H.B.346 BE CONCURRED IN.
MOTION PASSED. Senator Stimatz was selected to carry this bill.

CONSIDERATION OF HOUSE BILL 173:
"AN ACT AMENDING SECTION 13-12-101, MCA, TO REQUIRE THAT THE ELECTION LAWS TO BE FURNISHED TO ELECTION PRECINCTS INCLUDE ONLY TITLE 13, MCA."

REPRESENTATIVE CLYDE SMITH, District 18, introduced H.B.173 and said that this was a cost letting bill. The passage of this bill will save over $12,000.

PROPONENTS:

BILL CHRISTIAN of the Secretary of State's office testified that this was a result of a letter from Diana Dowling to Jim Waltermier, shown as EXHIBIT 8. It was suggested that an index was not quite the right thing. In addition to Title 13 they are printing 16 titles. Title 13 should be sufficient. A fiscal note shows a decrease of $9,000 and this has been taken from the budget and if this is not accepted they would have to ask the money to be appropriated.

MARGARET DAVIS testified to H.B.173 as a proponent and offered an amendment: page 1, line 15: after "title" insert "and the Montana State Constitution". SEE EXHIBIT 9.

OPPONENTS: None

QUESTIONS OF THE COMMITTEE:

SENATOR MARBUT stated that Title 7 was not in the book.

MARIAN CAMPBELL stated that it was not included because of the extreme size.

The hearing closed on H.B.346.

CONSIDERATION OF HOUSE BILL 259:
"AN ACT TO PROVIDE FOR THE PAYMENT OF COMPENSATION AND EXPENSES TO ANY LEGISLATOR ATTENDING PRESESSION MEETINGS OF ANY COMMITTEE ALTHOUGH NOT A MEMBER THEREOF; CHANGING THE NUMBER OF ROUND TRIPS DURING A SESSION FOR WHICH A LEGISLATOR MUST SUBMIT A MILEAGE CLAIM IN ORDER TO BE REIMBURSED; AMENDING SECTIONS..."

REPRESENTATIVE RAMIREZ, District 64, introduced this bill by saying it deals with compensation for prelegislative sessions and events, specifically speaking of the special session in the first suggestion. The second suggestion is reimbursement of travel during the session to and from home. He stated that they now get two trips at the beginning and one additional trip during the session without vouchers. They would then get two additional if they submit claims. This bill would see that we would get another trip during the special session. He said that they had some trouble defining what a "presession meeting" is.

SENATOR STORY stated that last session the Appropriations Committee met a full week before session started and others choose to come and hear it and that should constitute compensation.

REPRESENTATIVE RAMIREZ said that they may want to amend something in this bill to define that.

PROPONENTS: None

OPPONENTS: None

QUESTIONS OF THE COMMITTEE:

SENATOR MARBUT asked if this bill was intended to apply to this session.

REPRESENTATIVE RAMERIZ said "no", but those that have not put in claims may be able to put in three.

It was suggested that it is possible that if there is a budget problem there could be a special session soon.

SENATOR STORY suggested that if an invitation was extended to a non-member of a committee then they could be paid.

The hearing closed on H.B.259.

ACTION ON HOUSE BILL 259:
SENATOR TOWE MOVED THAT H.B.259 BE CONCURRED IN.
MOTION PASSED. Senator Towe will carry this bill.

It was the decision of the committee to take EXECUTIVE ACTION on other bills.

HOUSE BILL 557 was discussed. SENATOR HAMMOND stated that the non-profit concerns should not be addressed in this bill.

SENATOR TOWE remarked that many non-profit organizations are donated time, such as the Search and Rescue.

ACTION ON H.B.557:
SENATOR TOWE MOVED TO AMEND H.B.557 BY STRIKING SECTION 29 and include the title.
MOTION PASSED.
SENATOR TOWE MOVED THAT H.B. BE CONCURRED IN AS AMENDED.
MOTION PASSED. Senator Towe will carry this bill.

ACTION ON H.B.173:
SENATOR HAMMOND MOVED S.B.173 BE CONCURRED IN.
MOTION PASSED. Senator Story will carry this bill.

ACTION ON H.B.36:
SENATOR HAMMOND MOVED H.B.36 BE CONCURRED IN.
MOTION PASSED.

ACTION ON H.B.37: Held

Discussion was held on this bill.
SENATOR MARBUT presented his amendments.
SENATOR STORY asked that this bill be held until Friday and that Senator Marbut present his amendments at that time.

ACTION ON H.B.47:

SENATOR TOWE presented amendments shown as EXHIBIT 10.
SENATOR TOWE MOVED THE AMENDMENTS.
MOTION PASSED.
SENATOR TOWE MOVED H.B.47 BE CONCURRED IN AS AMENDED.
MOTION PASSED. Senator Towe will carry this bill.

ACTION ON H.B.92:

SENATOR TOWE MOVED AMENDMENT TO SUBSECTION 2.
MOTION PASSED

SENATOR TOWE MOVED THE AMENDMENT ON PAGE 2, LINE 9 thru 12.
MOTION PASSED. Senators Hammond and Marbut voting "NO".

SENATOR TOWE MOVED AMENDING PAGE 2, LINE 9 & 10.
MOTION PASSED. Senators Hammond and Marbut voting "NO".

SENATOR TOWE MOVED LINE 20 PAGE 2 CHANGING "shall" to "may".
MOTION PASSED.

SENATOR TOWE MOVED H.B.92 BE CONCURRED IN AS AMENDED. EXHIBIT 11.
MOTION PASSED.

There being no further business the meeting adjourned at 11:45 a.m.

Pete Story

CHAIRMAN, Senator Pete Story

ROLL CALL

STATE ADMINISTRATION COMMITTEE

47th LEGISLATIVE SESSION -- 1983 Date 3/2/83

NAME	PRESENT	ABSENT	EXCUSED	SENATE SEAT #
SENATOR PETE STORY, Chairman	X			45
SENATOR H. W. HAMMOND, Vice Ch	X			34
SENATOR REED MARBUT	X			44
SENATOR LARRY TVEIT				33
SENATOR R. MANNING	X			48
SENATOR LAWRENCE STIMATZ				7
SENATOR THOMAS TOWE	X			26

Each day attach to minutes.

DATE March 2, 1983

COMMITTEE ON

VISITORS' REGISTER

NAME	REPRESENTING	BILL #	Check One Support	Check One Oppose
MICHAEL HUNT	MONT ST. FIRE FIGHTERS	HB 487	✓	
BOB MURDO	BUSINESS LAW SECTION - STATE BAR	HB 557	✓	
Michael Walker	Mt. St. Council Fire Fighters	487	✓	
ALAN ROBERTSON	SEC OF ST	HB 557	✓	
Bill Christian	Sec of State	167-173 557-107	✓	
Dave Lewis	OBPP	HB 346	✓	
Marion Campbell	Sec of State	HB 107 173	✓	
MRS DAVIS	LWVMT	HB 173	amend	

(Please leave prepared statement with Secretary)

EXHIBIT 1
State Admin. 3/2/83

HOUSE BILL 487- CLARIFICATION OF DEATH BENEFITS FOR POLICE OFFICERS AND FIREFIGHTERS - O'Connell

Police System

Section 1 (beginning page 1, line 24). The definition of dependent children in the police system is the same as the definition enacted by the previous legislature in the firefighters' system.

(Page 4, line 22). This provides a legal definition of surviving spouse for retirement purposes.

Section 2 (beginning page 5, line 4). Provides police officers who do not have a surviving spouse who dependent child, the opportunity to elect a beneficiary to receive any residual left in the officers' retirement account at his/her death or have it paid to their estate.

Section 3 (pages 4, 5, and 6). These sections are amended to reflect the terms previously undefined in this act.

Had these amendments been in effect in 1975 when the system was consolidated, there would not have been an increase in any benefit payments. Had there been a situation similar to the case in the Unified Firefighters' System in 1981, it would have cost the system $70,000 dollars.

Firefighters

Section 5 (page 13, line 6). This provides a legal definition of surviving spouse for retirement purposes.

Section 6 (page 13, beginning on line 13). This section is amended to reflect changes in definition has been revised only for clarity. There is no overall change in the intention of the original section. There are no benefit changes.

This bill originated from a claim against the Unified Firefighters' System, by a lady who was a widow of a deceased firefighter and had her benefits terminated when she remarried. However, 10 years after her second marriage was terminated by divorce, she had her second marriage annulled in Court and by the annullment was made unmarried as of the date her benefits were terminated. She currently received $674 dollars a month as a surviving spouse. Had the Board honored her original claim, she would have received about $70,000 dollars in retroactive benefits, back to the date of the annullment.

In the bill we have tried to recognize a parity between the two systems in this area by using the same definition for dependent children of police officers that was enacted in 1981 as part of the Unified Firefighters' System. Currently, there are 340 recipients of monthly benefits in the police system of which 22 are surviving spouses.

In the Firefighters' System, there are currently 319 recipients of monthly benefits 34 of which are survivors.

LP4-A

EXHIBIT 3
State Admin.
March 2, 1983

STATEMENT ON ELECTION
For Limited Partnerships

To Become Subject to the Provisions of the
REVISED UNIFORM LIMITED PARTNERSHIP ACT

TO: THE HONORABLE JIM WALTERMIRE
MONTANA SECRETARY OF STATE
STATE CAPITOL
HELENA, MT 59620

(For use by the Secretary of State only)

Fee: $ 7.50

For the purpose of bringing itself within the provisions of the Montana Revised Uniform Limited Partnership Act, Title 35, Chapter 12, MCA, the undersigned submits the following statements of fact to the Secretary of State of Montana:

FIRST: The name of the limited partnership is _____

_____

(The name must contain the words LIMITED PARTNERSHIP in full)

SECOND: The certificate of limited partnership was filed in the office of the Secretary of State, State of Montana, under the laws of the State of Montana on _____, 19___, for the duration of _____ years, and it is carrying on the business or conducting the affairs for which it was created.

THIRD: It elects to bring itself within the provisions of the Montana Revised Uniform Limited Partnership Act and make itself subject to its provisions.

FOURTH: It designates as its specified agent the following named individual resident, domestic corporation, or qualified foreign corporation:

_____

FIFTH: It designates as its specified office the following: _____

_____

(Street and number, City, State and Zip Code)

SIXTH: And it attaches an amended Certificate of Limited Partnership setting forth any and all information required by 35-12-601 which is not otherwise set forth.

Dated this _____ day of _____, 19___.

_____
(Name of Limited Partnership)

_____
(Signature of General Partner)

NOTE: The execution of a certificate by a general partner constitutes an affirmation under the penalties of perjury that the facts stated therein are true, according to 35-12-604(3), MCA.

TM 1 — Rev. 6/82

Prepare, execute and submit in duplicate original

(For use by the Secretary of State only)

FILED FOR RECORD

TO: THE HONORABLE JIM WALTERMIRE
Secretary of State
Montana State Capitol
Helena, MT 59620

Filing Fee: $20.00

STATE OF MONTANA
APPLICATION FOR REGISTRATION AND CERTIFICATE OF REGISTRATION OF MARK
(Trademark - Service Mark)

For the purpose of registering a mark in the State of Montana, according to the provisions of 30-13-311, MCA, the undersigned submits the following statements of fact to the Secretary of State:

1. The essential feature of the mark to be registered is

_____

_____

_____

and attached hereto is a specimen, facsimile or drawing of the mark. (Attach in the space below or if on another sheet, attach to this form).

2. The general description of the goods or services with which the mark is used is_____

_____

_____

_____

and the class for such goods and service is_____
(Example: 2-FF, Sec. 30-13-331, MCA. See reverse for class numbers. One class per application.)

The mode or manner in which the mark is used in connection with the goods and services is_____

_____

_____

_____

3. The applicant has heretofore adopted and used the mark and the date the mark was first used by the applicant or predecessor anywhere is_____

and the date of first use in the State of Montana is

_____

4. The name of the applicant is_____

_____

5. The business address of the applicant, including street and number, if any, and city or town and state, is

_____
(street number) (street)

_____
(city or town) (state) (zip code)

6. The applicant is (check one and complete when appropriate)

☐ An individual

☐ A partnership and the names and addresses of the partners are:

_____
(name)

_____
(address including street, city or town, and state)

_____
(name)

_____
(address including street, city or town, and state)

_____
(name)

_____
(address including street, city or town, and state)

_____
(name)

_____
(address including street, city or town, and state)
(attach schedule if necessary)

☐ A corporation organized and existing under the laws of

_____

(Complete appropriate affidavit on reverse side)

COMPLETE THE ONE AFFIDAVIT THAT IS APPROPRIATE.

- **Affidavit if applicant is a corporation, partnership, or association.**

State of_____)
) ss.
County of_____)

I,_____, being first duly sworn
(Name of Officer making affidavit)

depose and say that I am_____, of
(President, Vice President or Secretary or a Partner)

_____, the applicant
(Complete Name of Applicant)

herein, and make this affidavit in its behalf; that I have read the foregoing application; that the facts set out therein are true; that the applicant is the sole owner of the mark sought to be registered and has the right to the use of the same and that no other person has the right to such use in this state, either in the identical form or in such near resemblance thereto as may be calculated to deceive or might be mistaken for; and that the description and facsimile filed herewith is true and correct; and

that I executed this document this _____ day of _____, 19_____.

X_____
(Signature)

Subscribed and sworn to before me this _____ day of_____, A.D._____

_____

NOTARIAL SEAL

Notary Public for the State of_____

Residing at_____

My Commission expires_____

★ ★ ★

- **Affidavit if applicant is an individual.**

State of_____)
) ss.
County of_____)

I,_____, being first duly sworn
(Name of Applicant)

depose and say that I am the applicant herein (doing business as_____); that I have read the foregoing application; that the facts set out therein are true; that I am the sole owner of the mark sought to be registered and have the right to the use of the same; that no other person has the right to such use in this state, either in identical form or in such near resemblance thereto as may be calculated to deceive or might be mistaken for; and that the description and facsimile filed herewith is true and correct; and that I executed this document this _____ day of _____, 19_____.

X_____
(Signature)

Subscribed and sworn to before me this _____ day of_____, A.D._____

_____

NOTARIAL SEAL

Notary Public for the State of_____

Residing at_____

My Commission expires_____

CLASSES: To assist you in completing item 2, the State Statute regarding classes is reprinted for your reference.

30-13-331. Classification. (1) The following general classes of goods and services are established for convenience of administration of this part. This classification does not limit or extend the applicant's or registrant's rights. A single application for registration of a mark may include any or all goods or services comprised in a single class with regard to which the mark is actually being used. However, in no event may a single application include goods or services that fall within different classes of goods or services.

(2) The classes of trademarks are as follows:
(a) raw or partly prepared materials;
(b) receptacles;
(c) baggage, animal equipments, portfolios, and pocketbooks;
(d) abrasive and polishing materials;
(e) adhesives;
(f) chemicals and chemical compositions;
(g) cordage;
(h) smokers' articles, not including tobacco products;
(i) explosives, firearms, equipment, and projectiles;
(j) fertilizers;
(k) inks and inking materials;
(l) construction materials;
(m) hardware and plumbing and steamfitting supplies;
(n) metals and metal casting and forgings;
(o) oils and greases;
(p) paints and painters' materials;
(q) tobacco products;
(r) medicines and pharmaceutical preparations;
(s) vehicles;
(t) linoleum and oil cloth;
(u) electrical apparatus, machines, and supplies;
(v) games, toys, and sporting goods;
(w) cutlery, machinery, and tools, and parts thereof;
(x) laundry appliances and machines;
(y) locks and safes;
(z) measuring and scientific appliances;
(aa) horological instruments;
(bb) jewelery and precious metal ware;
(cc) brooms, brushes, and dusters;
(dd) crockery, earthenware, and procelain;
(ee) filters and refrigerators;
(ff) furniture and upholstery;
(gg) glassware;
(hh) heating, lighting, and ventilating apparatus;
(ii) belting, hose, machinery packing, and nonmetallic tires;
(jj) musical instruments and supplies;
(kk) paper and stationery;
(ll) prints and publications;
(mm) clothing;
(nn) fancy goods, furnishings, and notions;
(oo) canes, parasols, and umbrellas;
(pp) knitted, netted, and textile fabrics, and substitutes therefore;
(qq) thread and yarn;
(rr) dental, medical, and surgical appliances;
(ss) soft drinks and carbonated waters;
(tt) food and ingredients of foods;
(uu) wines;
(vv) malt beverages and liquors;
(ww) distilled alcoholic liquors;
(xx) merchandise not otherwise classified;
(yy) cosmetics and toilet preparations;
(zz) detergents and soaps.

(3) The classes of service marks are as follows:
(a) miscellaneous;
(b) advertising and business;
(c) insurance and financial;
(d) construction and repair;
(e) communications;
(f) transportation and storage;
(g) material treatment;
(h) education and entertainment.

EXHIBIT 4
State Admin.
March 2, 1983

TO: Alan

FROM: Florence

RE: Notary Info

DATE: March 1, 1983

Attached are Limited Partnership Election forms (most others have a notary section) and Statement of Change forms as requested. We have no forms that require two signatures on any application as the applicant signature and verification are one.

During January and Februay 1983 we filed 8686 documents and rejected 2119 documents for 24.4%.
Approximately 27-30% of the rejects are rejected because of no notary or incorrect verification/acknowledgement - Using above ratio we woul have rejected approx. 570 in Jan & Feb for this reason.

In 1982 we filed 34,184 documents. Using the above ratios we would have rejected 8340 documents total and 2251 for verification, etc.

Please know these are very rough estimates!!

EXHIBIT 5
State Administration
March 2, 1983

TO: Cliff

FROM: Florence

DATE: February 7, 1983

RE: Notorization in other states

Prior to preparing legislation for my bureau, I sent a questionnaire to all the states to see how each of them handled the various issues we were addressing.

Forty four of the 50 states responded. I found the following concerning notorization of documents:

14 required all documents to be notorized (acknowledged or verified)

20 required no notorization (signed under penalty)

10 required notorization of only selected documents (could not see any one reason for selection of various documents as opposed to either all or none)

Cliff, if you need more, let me know. Thanks.

orm CS-34
79

EXHIBIT 6
State Admin.
3/2/83

NAME BOB MURDO BILL NO. HB 557

ADDRESS 203 No. EWING HELENA, MT. DATE 3/2/83

WHOM DO YOU REPRESENT BUSINESS LAW SECTION - STATE BAR OF MONTANA

SUPPORT _____ OPPOSE _____ AMEND ✓

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

THE GOVERNING COUNCIL OF THE BUSINESS LAW SECTION OF THE STATE BAR OF MONTANA SUPPORTS HB 557 WITH THE AMENDMENT RECOMMENDED BY THE SECRETARY OF STATE — i.e. - DELETION OF SECTION 29.

STATE BAR OF MONTANA

2030 ELEVENTH AVENUE • WASHINGTON PLAZA
P. O. BOX 4669 • HELENA, MONTANA 59604 • (406) 442-7660

EXECUTIVE DIRECTOR
Kent M. Parcell

EXHIBIT 7a

State Admin.
March 2, 1983

HB 557

February 14, 1983

Hon. James Waltermire
Secretary of State
State Capitol
Helena, MT 59620

Re: House Bill 557

Dear Mr. Waltermire:

I am a member of the Council of the Business Section of the State Bar of Montana and have been actively involved in the revision of the corporation laws of Montana for the last twenty years. I was a member of the Corporation Law Revision Commission which introduced the American Bar Association Model Business Corporation Act, and I was a member of the Business Section Committee which introduced the substantial amendments which were made in the Act in the 1981 Legislative Session.

House Bill 557 involves an amendment of the Business Corporation Act and the Montana Nonprofit Corporation Act. Although laudible in purpose, it involves a rather severe series of penalties with respect to documents filed in your office. Many documents that are filed in your office are those routinely handed to corporate officers. If false or incorrect information is inadvertently inserted, the penalty of House Bill 557 is quite severe. To subject an officer signing a document with the "penalties of perjury" when an inadvertent omission or statement might be involved goes far beyond any present needs that I know of. Have there been a great number of false and fraudulent documents filed with your office? Nonprofit corporations such as churches and fraternal organizations have officers who are not paid and who rely upon "volunteers" to prepare documents for filing in your office in most cases. Why should the penalty of perjury also be imposed upon them?

I am not aware that anybody involved in the revisions of the Model Business Corporation Act and the Model Nonprofit Corporation Act was ever consulted by your office

COPY

EXHIBIT 7b
State Admin
March 2, 1983

with respect to these changes. The Business Section is composed of law professors and practitioners who work with these provisions of the law on a regular basis. At several times in the past we have invited the Secretary of State's Office to participate in the Business Section. Our section has worked long and hard to achieve careful integration of the various provisions of the Model Corporation Code and effect a desirable and uniform result.

Unless it can be demonstrated that there is a flagrant and widespread abuse of truthfulness in the filing of documents with your office, I would have to recommend that the Business Section of the State Bar of Montana oppose House Bill 557, which amends Section 35-2-413 of the Nonprofit Corporation Act.

Very truly yours,

STATE BAR OF MONTANA

Ward A. Shanahan, Member of the Council, Business Section

WAS/mje
cc: Professor J. G. Wyse, Chairman, State Bar Business Section
J. C. Weingartner, State Bar Legislative Liaison
Kent Parcell, Executive Director, State Bar of Montana
Senator Pete Story
0776W

8

EXHIBIT 8a
State Ad.
March 2, 198
1983

Montana Legislative Council
State Capitol
Helena, MT. 59620
(406) 449-3191

December 17, 1981

Legislative Change

Hon. Jim Waltermire
Secretary of State
State Capitol
Helena, Montana 59620

Dear Mr. Waltermire:

I understand that because of faulty records and/or changes in personnel, etc., your office had difficulty in budgeting for the 1981 publication of the election laws required by 13-12-101. At its meeting December 15, 1981, the Legislative Council agreed to absorb Council staff wages and Department of Administration computer costs involved with this project, but requested that I let you know exactly what those costs were so that you can properly budget for this in 1983. The members of the Council also suggested that the Legislature would be very interested in your opinion as to whether or not the publication is needed and, if so, worth the exorbitant price. One suggestion that struck me as perhaps worth pursuing, since the Code is widely available at county offices, libraries, etc., was that the Secretary of State merely list the section numbers and catchlines of the laws involved with perhaps an accompanying index.

In addition to the charges paid to the printer by your office, which I understand will be over $14,000 this year, and the $4,187.71 charged by Data Retrieval to produce camera-ready copy at $6.42 per page, the following costs were incurred by this office and should be considered a cost of producing the election laws.

Form CS-34
-79

EXHIBIT 9
State Admin
March 2, 1983

NAME Margaret S Davis BILL No. HB 143

ADDRESS Helena DATE 2 Mar 83

WHOM DO YOU REPRESENT League of Women Voters

SUPPORT X OPPOSE AMEND X

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

Amend:
page 1, line 15. after "title" insert
"and the Montana State Constitution"

The election laws are a very valuable publication to which we and others refer often. The publishing of Title 13 is useful to candidates, parties and citizens. The League answers weekly inquiries on absentee voting, election administration, etc. from U.S. service academies, universities, Montanans living out of state and from citizens.

Moreover the amendment bonuses many candidates would not otherwise inform themselves about the constitution nor do they have handy access to the complete codes. The constitution also deals directly with voting rights.

EXHIBIT 10
State Adminis.
March 2, 1983

AMENDMENT FOR HB 47

1. Page 1, line 13 and 14
   Strike: "PRIOR TO THE EFFECTIVE DATE OF THIS ACT"
   Insert: "or to be adopted"

2. Page 1, line 19 through 21.
   Strike: "WHERE" through "ACT"
   Insert: "Such statement must be placed in the ARM"

3. Page 1, line 22.
   Following: "REPRINTING"
   Insert: "or upon request of the administrative code committee as provided in subsection (2)"

4. Page 1, lines 23 through page 2, line 1.
   Following: "(2)"
   Strike: "Upon" through "omitted." on line 1, page 2.
   Insert: "The administrative code committee may file with the secretary of state, for publication with any rule or portion thereof it considers to be adjective or interpretive, a statement indicating that it is the opinion of the administrative code committee that the rule or portion thereof is adjective or interpretive and therefore advisory only."

EXHIBIT 11
State Administration
March 2, 1983

AMENDMENT HB 92

1. Title, line 10.
   Strike: "AWARDING"
   Insert: "ALLOWING"

2. Page 2, line 9.
   Following: "to the rule"
   Insert: ", provided an agency response must also be published if requested by the agency"

3. Page 2, line 10.
   Following: "objection"
   Insert: "and the agency response"

4. Page 2, line 20.
   Strike: "shall"
   Insert: "may"

5. Page 3, line 5.
   Strike: "not"

6. Page 3, line 8.
   Following: "~~intent~~"
   Insert: "with an arbitrary or capricious disregard for the purpose of the authorizing statute as evidenced by documented legislative intent, or was not"

STANDING COMMITTEE REPORT

MARCH 2 19 83

MR. PRESIDENT

We, your committee on STATE ADMINISTRATION

having had under consideration HOUSE Bill No. 487

O'Connell (Manning)

Respectfully report as follows. That HOUSE Bill No. 487

BE CONCURRED IN

~~DO PASS~~

SENATOR PETE STORY Chairman.

STATE PUB. CO.
Helena, Mont.

1/C

STANDING COMMITTEE REPORT

MARCH 2 19 83

MR. PRESIDENT

We, your committee on STATE ADMINISTRATION

having had under consideration HOUSE Bill No. 107

Sales (Marbut)

Respectfully report as follows: That HOUSE Bill No. 107

BE CONCURRED IN

~~DO PASS~~

SENATOR PETE STORY Chairman.

STATE PUB. CO.
Helena, Mont.

STANDING COMMITTEE REPORT

MARCH 2 19 83

MR. PRESIDENT

We, your committee on STATE ADMINISTRATION

having had under consideration HOUSE Bill No. 167

Sands (Story)

Respectfully report as follows: That HOUSE Bill No. 167

BE CONCURRED IN

DO ~~PASS~~

SENATOR PETE STORY Chairman.

STATE PUB. CO.
Helena, Mont.

STANDING COMMITTEE REPORT

MARCH 2 19 83

MR. PRESIDENT

We, your committee on STATE ADMINISTRATION

having had under consideration HOUSE Bill No. 346

KEENAN (STIMATZ)

Respectfully report as follows: That HOUSE Bill No. 346

BE CONCURRED IN

~~DO PASS~~

SENATOR PETE STORY Chairman.

STATE PUB. CO.
Helena, Mont.

STANDING COMMITTEE REPORT

MARCH 2 19 83

MR. PRESIDENT

We, your committee on STATE ADMINISTRATION

having had under consideration HOUSE Bill No. 259

Ramirez (Towe)

Respectfully report as follows: That HOUSE Bill No. 259

BE CONCURRED IN

XXXXXXXXXX
~~DO PASS~~

SENATOR PETE STORY Chairman.

STATE PUB. CO.
Helena, Mont.

STANDING COMMITTEE REPORT

MARCH 2 19 83

MR. PRESIDENT

We, your committee on STATE ADMINISTRATION

having had under consideration HOUSE Bill No. 173

Clyde Smith (Story)

Respectfully report as follows: That HOUSE Bill No. 173

BE CONCURRED IN

XXXXXXXXXXX DO PASS XX

SENATOR PETE STORY Chairman.

STATE PUB. CO.
Helena, Mont.

STANDING COMMITTEE REPORT

MARCH 2 19 83

MR. PRESIDENT

We, your committee on STATE ADMINISTRATION

having had under consideration HOUSE Bill No. 557

Sands (Towe)

Respectfully report as follows: That HOUSE Bill No. 557

third reading, be amended as follows:

1. Title, line 14.
   Strike: "35-2-413,"

2. Page 41, line 11.
   Strike: Section 29 in its entirety
   Renumber: subsequent sections

And as so amended
~~DO PASS~~ BE CONCURRED IN

SENATOR PETE STORY Chairman.

STATE PUB. CO.
Helena, Mont.

STANDING COMMITTEE REPORT

MARCH 2 19 83

MR. PRESIDENT

We, your committee on STATE ADMINISTRATION

having had under consideration HOUSE Bill No. 36

Stobie (Hammond)

Respectfully report as follows: That HOUSE Bill No. 36

BE CONCURRED IN

~~DO PASS~~

SENATOR PETE STORY Chairman.

STATE PUB. CO.
Helena, Mont.

STANDING COMMITTEE REPORT

MARCH 2 19 83

MR. PRESIDENT

We, your committee on STATE ADMINISTRATION

having had under consideration HOUSE Bill No. 47

SCHULTZ (Towe)

Respectfully report as follows: That HOUSE Bill No. 47

third reading, be amended as follows:

1. Page 1, line 13 and 14.
   Strike: "PRIOR TO THE EFFECTIVE DATE OF THIS ACT"
   Insert: "or to be adopted"

2. Page 1, line 19 through 21.
   Strike: "WHERE" through "ACT"
   Insert: "Such statement must be placed in the ARM"

3. Page 1, line 22.
   Following: "REPRINTING"
   Insert: "or upon request of the administrative code committee as provided in subsection (2)"

~~DO PASS~~

continued..

Chairman.

STATE PUB. CO.
Helena, Mont.

4. Page 1, lines 23 through page 2, line 1.
Following: "(2)"
Strike: "Upon" through "omitted." on line 1, page 2.
Insert: "The administrative code committee may file with the secretary of state, for publication with any rule or portion thereof it considers to be adjective or interpretive, a statement indicating that it is the opinion of the administrative code committee that the rule or portion thereof is adjective or interpretive and therefore advisory only."

and, as so amended
BE CONCURRED IN

SENATOR PETE STORY Chairman.

STATE PUB. CO.
Helena, Mont.

STANDING COMMITTEE REPORT

MARCH 2 19 83

MR. PRESIDENT

We, your committee on STATE ADMINISTRATION

having had under consideration HOUSE Bill No. 92

Stobie (Hammond)

Respectfully report as follows: That HOUSE Bill No. 92

third reading, be amended as follows:

1. Title, line 10.
   Strike: "AWARDING"
   Insert: "ALLOWING"

2. Page 2, line 9.
   Following: "to the rule"
   Insert: ",provided an agency response must also be published if requested by the agency"

3. Page 2, line 10.
   Following: "objection"
   Insert: "and the agency response"

4. Page 2, line 20.
   Strike: "shall"
   Insert: "may"

~~DO PASS~~

continued...

Chairman.

STATE PUB. CO.
Helena, Mont.

5. Page 3, line 5.
   Strike: "not"

6. Page 3, line 8.
   Following: "intent"
   Insert: "with an arbitrary or capricious disregard for the purpose of the authorizing statute as evidenced by documented legislative intent, or was not"

And, as amended
BE CONCURRED IN

SENATOR PETE STORY
Chairman.

STATE PUB. CO.
Helena, Mont.